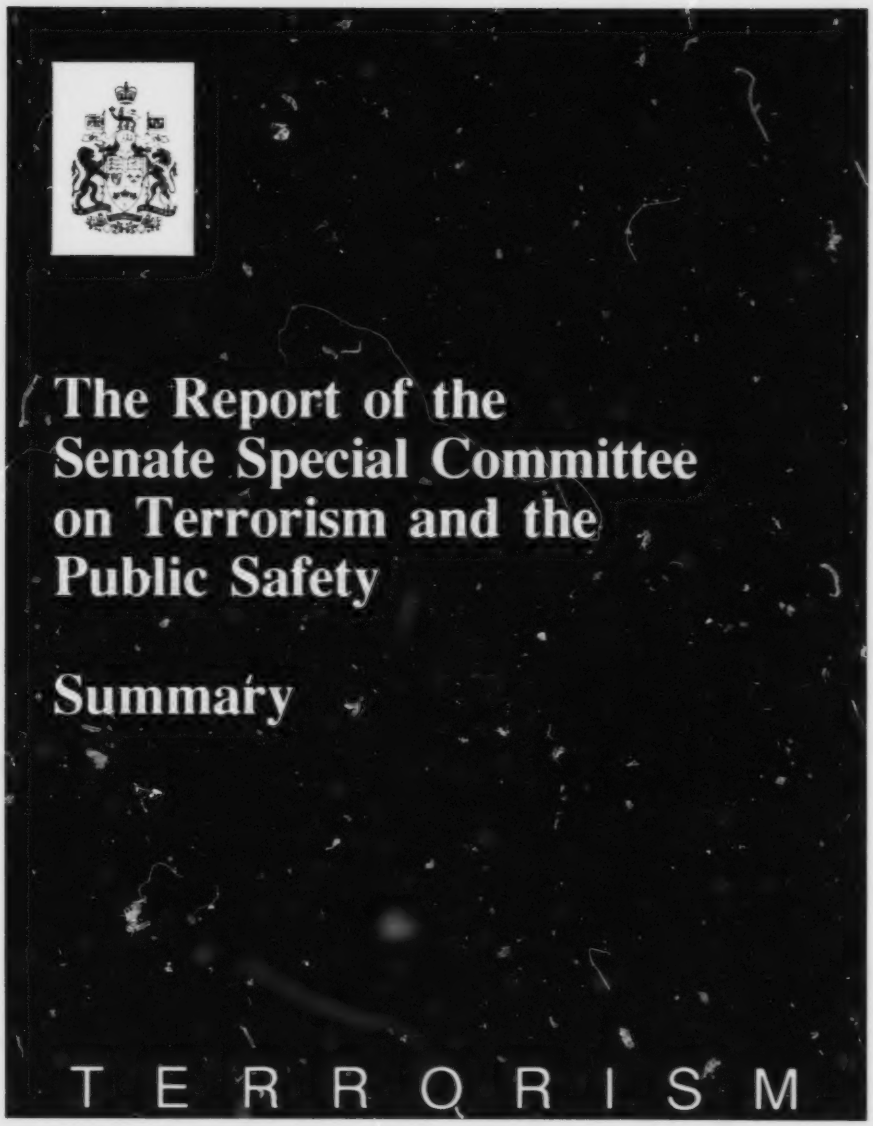

The Report of the Senate Special Committee on Terrorism and the Public Safety

Summary

TERRORISM

Chairman
The Honourable William M. Kelly

Deputy Chairman
The Honourable Daniel P. Hays

June 1987

The Report of the Senate Special Committee on Terrorism and the Public Safety

Summary

TERRORISM

Membership

SPECIAL COMMITTEE OF THE SENATE ON TERRORISM AND PUBLIC SAFETY

The Honourable William M. Kelly, *Chairman*

The Honourable Daniel Hays, *Deputy Chairman*

The Honourable Senators:

Peter Bosa
Joyce Fairbairn
Jacques Flynn, P.C.
Colin Kenny
Finlay MacDonald (Halifax)
*Allan J. MacEachen, P.C. (or Royce Frith)
*Lowell Murray, P.C. (or C. William Doody)
Ian Sinclair

**Ex officio* Member

Note: The Honourable Senators Cogger, Lucier, and Macdonald (Cape Breton) also served during the Second Session of the Thirty-third Parliament.

Order of Reference

Extract from the Minutes of the Proceedings of the Senate of Wednesday, October 8, 1986:

The Honourable Senator Kelly moved, seconded by the Honourable Senator Tremblay:

That a Special Committee of the Senate be appointed to hear evidence on and consider matters relating to terrorism as a real or potential threat to Canada and to Canadians;

That the Committee examine and make recommendations on the subject-matter and effectiveness of existing statutes, agreements and administrative arrangements pertaining to the combating of terrorist activity;

That the Committee examine and make recommendations on the role of the media in reporting terrorist threats and incidents;

That eight Senators, to be designated at a later date, act as members of the Special Committee;

That the Committee have power to report from time to time, to send for persons, papers and records and to print such papers and evidence from day to day as may be ordered by the Committee; and

That the Committee report to the Senate no later than June 2, 1987.*

The question being put on the motion, it was-
Resolved in the affirmative.

Charles Lussier
Clerk of the Senate

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* By order of the Senate dated May 12, 1987, the date of tabling the final report was extended to June 30, 1987. By order of the Senate dated June 26, 1987, the date of tabling the final report was extended to August 17, 1987.

FOREWORD

At the time approval from the Senate was first sought to undertake this study, there had been several major terrorist incidents in Canada or involving Canadians. Since the review began, there have been no terrorist incidents in Canada. This does not mean, however, that the problem of terrorism has disappeared. It did mean, that the Committee had a period of relative calm within which it could examine the issues dispassionately and deliberately.

I am sincerely grateful to all members of the Committee, particularly to the Deputy Chairman Senator Dan Hays, for their patience and hard work through an arduous schedule of hearings dealing with issues that are highly sensitive and complicated.

The Committee wishes to record its gratitude to the Clerk of the Committee, John Desmarais, the Committee Legal Counsel, Don Macdonald for his legal advice and assistance and to C.G. Management and Communications Inc. of Toronto for their assistance in organizing hearings, undertaking research and in the preparation and publication of the Report.

The Committee also wishes to express its appreciation to the many government officials, law enforcement officers and other witnesses who appeared before the Committee, in some cases two or three times, often giving up weekends and free time to do so.

At certain stages of the Report, the Committee also benefitted from the advice and assistance of Dr. Thomas Mitchell, Conference Board of Canada, Dr. Maurice Tugwell, The MacKenzie Institute, Dr. Ron Crelinsten, Department of Criminology, University of Ottawa, Dr. Michael Kelly and Werner Schwantje.

W.M. Kelly,
Chairman

Ottawa, June 1987

SUMMARY

The following summarizes the major findings and conclusions set out in the Report of the Special Committee of the Senate on Terrorism and Public Safety. As a summary, it does not include all the evidence considered by the Committee, the reasoning behind the recommendations or the details of the observations and recommendations made. For ease of reference, page numbers are provided to allow cross-referencing with the appropriate pages in the text of the Committee Report where findings, observations and recommendations are discussed in detail.

INTRODUCTION

In a worldwide context, Canada has not, to date, been the focus of significant terrorist threats or violence. At the time of writing this Report, there had been no terrorist incident in Canada in nearly a year. The number of past terrorist incidents in Canada or involving Canadians pales in comparison to the number of terrorist events in Europe, the Middle East, southern Africa, or some parts of South and Central America. Neither has Canada been a major haven or base for terrorists conducting operations in other countries.

The first issue confronted by the Committee sprang from a lack of a universally or even widely-accepted definition of terrorism or a typology of terrorism (Page 3). In addition, the Committee found a wide variation among sources in the number of threats or incidents in Canada attributed to terrorism (Pages 6 - 8). The Committee concluded, however, that terrorist events in Canada or affecting Canadians have increased significantly over the past quarter century. From available evidence, the Committee concluded that this trend is likely to continue into the foreseeable future.

The Committee has concluded that there are two types of terrorism principally constituting a threat to Canada and Canadians: The major threat is from international terrorism, due to Canada becoming the unwilling host for terrorist groups or incidents motivated by past or present situations in other

countries. These groups or incidents spring, in the main, from the radical fringes of three ethnic groups located in significant numbers in Canada and known to police, security and intelligence agencies (Page 9). The secondary threat is from domestic terrorism, particularly from radical right-wing/racist groups, radical "animal liberation" groups and the extreme elements of certain anti-abortion groups. Terrorism associated with left wing causes or grievances in Canada appears to be on the wane, due largely to efficient police, security and intelligence work (Pages 9 - 10).

The Committee found no evidence of significant state or state-sponsored terrorism in Canada. It did, however, receive disturbing evidence of activities of the security agencies of certain allied governments in Canada focussing on individuals or ethnic communities seen as posing a threat. The Committee finds such activities reprehensible. The Committee also heard testimony that agents of foreign governments had instigated or been involved in recent terrorist incidents. The Committee found no evidence to support such claims (Pages 3 - 4).

Canadians' perception of terrorism and the terrorist threat is heavily influenced by terrorist threats and incidents around the world, particularly by those affecting the U.S. and U.S. interests abroad and as communicated by the U.S. media. In fact, the terrorist threat to Canada is quantitatively and qualitatively different from that affecting many other countries, including the U.S. (Pages 12 - 13). The approaches to counter-terrorism are, therefore, materially different in Canada than they are in the U.S. In particular, countering the terrorist threat to Canada is primarily a function of internal security.

In its review, the Committee did not analyze or comment on the so-called "root causes of terrorism". Instead the Committee treated terrorism generically and avoided any qualitative distinction among the various motivations, causes, grievances and objectives. The Committee will doubtless be criticized for this approach, but concluded that addressing the root causes of terrorism would do little to lessen the impact of terrorism principally of concern to Canada and to Canadians (Pages 10 - 11).

It would be regrettable were Canadians to be sanguine about terrorism. As has occurred in other countries, one terrorist incident or a series of related terrorist incidents can preoccupy or paralyse a government and deflect it from its course. Governments' reactions to terrorist incidents are often far out of proportion to the actual or long-term threat imposed. The public and governments must, therefore, be prepared to make both an effective and a measured response to terrorism whenever and however it occurs.

Furthermore, that which makes Canada's open society attractive also make it vulnerable to terrorist attack. Canada's large and sophisticated infrastructure--

its airports, railways, power plants and telecommunications networks--provides attractive targets. Canada's advanced transportation and communications systems facilitate entry and escape and provide access to local or worldwide media coverage (Pages 13 - 17).

It was with this perspective that the Committee undertook its study: Not to alarm or excite, but to review the current policies, systems, procedures and legislation for responding to terrorist threats and incidents in Canada or affecting Canadians abroad, to ensure that we can, as a nation, mount effective responses. Given the evolution of terrorism worldwide, the Committee felt that an objective and dispassionate review would accomplish more and be more helpful than an inquiry driven by an imminent or recent incident.

Part I THE LEGISLATIVE FRAMEWORK

The principal focus of many governments has been on international agreements to combat terrorism. Canada has played and should continue to play an important role in the preparation of increasingly effective and comprehensive counter-terrorism treaties, agreements and conventions.

The battle against terrorism in the international context is conducted on three fronts. The first front is based on security and intelligence work to monitor the movements and plans of terrorists and give governments advanced warning of likely or potential terrorist actions (Pages 20 - 21). The second front is based largely on **ad hoc** agreements between states to resolve a specific terrorist incident involving the interests of more than one state. The third front is the complex of multilateral treaties, agreements and conventions among states (Pages 21 - 24), including bilateral extradition treaties (Pages 24 - 26) that largely relate to the treatment of terrorists after an incident.

Because of the nature of the terrorist threat to Canada, however, international agreements will have only a limited impact in addressing the Canadian problem (Pages 28 - 30). The thrust of Canada's attention should be directed towards domestic law, including federal statutes, regulations and federal-provincial-municipal agreements and arrangements.

In the Committee's view, a basic framework of effective federal law already exists. With some modifications, these laws can be adapted better to counter terrorism. The Committee is strongly opposed to the preparation of a separate stream of anti-terrorism legislation in Canada and hopes the government will resist any pressures or trends in that direction. As a general conclusion, the Committee feels that terrorism should be treated as criminality for legal purposes (Pages 31 - 33).

The Committee recommends that Cabinet provide the requisite authority whereby the national Special Emergency Response Team (SERT) could, if so directed by the government, undertake an armed assault outside Canada (in international waters, or in other countries at the invitation of the home governments). Cabinet should also prescribe the parameters within which such an operation would take place (Page 34). The Committee also recommends legislation to proscribe the importation, production, distribution or sale of certain publications, known in the trade as "mayhem manuals", that could be of practical assistance to terrorists (Pages 35 - 36).

Several witnesses appearing before the Committee who represented Sikh communities in Canada raised strong objections and concerns about the recent extradition treaty entered into between Canada and India. They contended that the treaty's objective is to enable the Indian government to harass and intimidate Sikhs in Canada. The Committee found these concerns without foundation and noted that the only extraditions requested under the treaty, to date, have been initiated by Canada (Pages 30 - 31).

The Committee is concerned about the status of federal-provincial-municipal agreements, coordination and cooperation under Part IV of the **Canadian Security Intelligence Service Act**. Effective and expeditious cooperation among the three levels of government is vital in Canada's fight against terrorism. Federal-provincial agreements under subsection 61 (2) have been too slow in coming. An agreement with Quebec is still outstanding. In the main, the agreements in existence are broad, vague and largely meaningless. Agreements between the RCMP and the major municipal police forces to "operationalize" the federal-provincial agreements still have to be set.

Further, the Committee believes that federal authorities are over-confident in their perception of how effectively police forces will work together under these agreements during a terrorist incident. The Committee is very concerned that a terrorist incident in a major urban area could still result in a repetition of the Bahamian High Commission hostage- taking in April, 1986, where officers of the RCMP and Ottawa Police engaged in an unseemly and highly counter-productive dispute over jurisdiction.

The Committee recommends that federal officials, in particular the RCMP, conduct their discussions and negotiations with provincial and municipal police forces with more flexibility and that they work towards a cooperative and coordinated management of terrorist threats and incidents, rather than simply imposing federal primacy (Pages 36 - 40). In a closely-related vein, the Committee is disturbed that, to date, joint training has not occurred between the RCMP SERT and emergency response teams at the provincial or local levels. The Committee finds this situation and the reasons given for it unacceptable

and recommends that the Department of the Solicitor General and the RCMP take the initiative to arrange joint training sessions immediately (Pages 40 - 41).

The Committee heard testimony from provincial Crown prosecutors complaining of a lack of cooperation from the Canadian Security Intelligence Service (CSIS) during the prosecution of alleged terrorists. They claim that sometimes CSIS' decision to withhold information, or CSIS' refusal to allow CSIS officers to testify made it more difficult to prosecute cases successfully and may, in fact, undermine the Crown's case. At the time this testimony was received, there had been no prosecutions that had failed for these reasons. Since then, there appears to have been at least one.

Accordingly, the Committee recommends that the federal Attorney General exercise his right to assume responsibility for prosecution of a security offender under subsection 57 of the **Canadian Security Intelligence Service Act** whenever CSIS (or RCMP) information or witnesses will constitute a material element of the Crown's case, especially if such information or witnesses might be withheld for security reasons (Pages 41 - 42).

Part II THE FEDERAL GOVERNMENT'S COUNTER AND ANTI-TERRORISM ESTABLISHMENT

The way the federal government is organized to counter-terrorism may have been the single most important issue addressed by the Committee. The structure has evolved since the FLQ Crisis in Quebec in 1970, but primarily since 1984. It is both large and complicated, requiring extensive coordination mechanisms and "lead ministries" (Pages 46 - 57).

In evaluating the structure, the Committee asked itself a simple question: "Can this structure, as devised, be reasonably expected to work?" The Committee's general response is that, particularly in the management of a terrorist crisis, it can't. There are many departments and agencies involved, with too much potential for overlap, duplication of effort and "turf battles". The department responsible for coordinating the government's response to crises and the government's counter-terrorism policies and procedures is a "junior" one (the Department of the Solicitor General). The Committee notes that the government's response to two specific terrorist incidents to a considerable extent ignored the processes and the structures nominally in place. In fairness, however, some of the arrangements and responsibilities are relatively new and untried (Pages 57 -58).

The Committee reached several recommendations after having reviewed the current structure and, with RCMP officers and government officials, using several hypothetical scenarios to test the system:

• The Committee sees no reason to continue the separation between the federal government's emergency preparedness operation and crisis management for terrorist incidents or threats. It recommends the functions be combined (Pages 58 - 59). The Committee also noted the number of "crisis management centres" in federal departments and agencies that would begin operation in response to a terrorist incident. It recommends there be a centralized crisis management centre in the Privy Council Office to be the operational focus for coordinating and managing the federal government's response to terrorist incidents in Canada and abroad, as well as to natural disasters, insurrection or attack. When activated, this crisis management centre would operate under the ultimate direction and control of the Cabinet Committee on Security and Intelligence (Pages 59, 61 - 63).

• The Committee noted the number of departments and agencies involved in some form of intelligence-gathering and threat assessment germane to counter-terrorism. It is concerned with the potential for breakdowns in coordinating threat assessment and ensuring that information is quickly and effectively transmitted to the relevant operating authorities. The Committee recommends that the Security and Intelligence Secretariat in the Privy Council Office be enlarged and enhanced in order to coordinate and conduct centralized threat analysis and assessment (Pages 60 - 61).

• The Committee reviewed the rationale behind the government's decision in 1986 to locate the national anti-terrorist Special Emergency Response Team (SERT) within the RCMP. It did not find the reasons compelling and recommends that the SERTeam be gradually integrated with the Canadian Armed Forces (Pages 64 - 68).

• The Department of the Solicitor General has been given responsibility to coordinate the federal government's counter and anti-terrorism policies and programs. Because this function is relatively new, because the Department is a "junior" one and because of resistance from certain other departments, the Department of the Solicitor General has not been able to fulfill this particular mandate. The Committee carefully considered but rejected suggestions that the role be transferred to another department or to the Privy Council Office, but recommends that the Department of the Solicitor General be given more resources to perform the function and that the Prime Minister and senior Ministers provide the political support necessary to confirm and reinforce the Department's counter-terrorism mandate (Pages 68 - 69).

• The Committee was concerned that the federal government's counter and anti-terrorism structure now in place is largely the consequence of administrative/bureaucratic arrangements and agreements reached over time with little or no statutory background or explicit ministerial scrutiny or approval. This tends to obscure accountability, particularly to Parliament.

The Committee was also concerned with what it saw as inadequate political oversight of the operation of the system, particularly by the Cabinet Committee on Security and Intelligence (Pages 69 - 70).

Part III IMMIGRATION POLICIES AND PROCEDURES

Canada is largely a nation of immigrants; a strongly multi-ethnic and multicultural society. Immigration has been essential to Canada's growth and prosperity and will continue to be so. Canada is a multicultural country that has forged, at least since the Second World War, and continues to forge a commendable record of immigration that is blind to race, colour, ideology or religion. The Committee was not concerned with immigration policies and procedures, except to the extent they relate to its mandate. The Committee is concerned about the ease with which terrorists may gain entry into Canada through current immigration procedures, including current security screening processes.

It is the Committee's general observation that Canada's immigration policies and procedures were prepared prior to international terrorism becoming a major concern to policy-makers. As a consequence, the thrust of the current legislation is to protect individual rights when screening applicants for entry into Canada. When examined strictly from the perspective of counter-terrorism, the complexity of current immigration policies and procedures, particularly with respect to refugee claimants, and the numerous review and appeal avenues cause the Committee concern. Our immigration procedures appear to be on the verge of complete collapse under the pressure of current entry volumes. Of particular concern to the Committee is that current procedures cannot, or do not, in many instances, effectively and expeditiously identify, deport, detain or block the entry of terrorists or persons with suspected terrorist intentions or associations. The large volumes of entrants into Canada put an enormous burden on the immigration system and on police and security agencies, making it very difficult to operate an effective security screening process.

It is difficult to make any recommendations that would materially expedite the immigration and refugee determination process without harming, or appearing to harm, legitimate immigrants, in particular refugees. A government's ability to initiate change is, therefore, severely constrained and any proposed change from the **status quo** will be the subject of close public scrutiny and perhaps vocal opposition.

The Committee rejected suggestions that Canada require visas for any entrants into Canada, including refugees. In the Committee's view this requirement would be administratively cumbersome, have major negative foreign policy implications and disadvantage legitimate refugees. The Committee does,

however, believe it both reasonable and feasible to require transit visas for persons from countries requiring visas to enter Canada (Pages 89 - 90).

A person can be denied a visa to enter Canada on security grounds, but present himself at any Canadian port of entry, claim refugee status and be allowed to remain in Canada while the refugee claim is processed. The Committee finds this situation unacceptable and suggests changes to the **Immigration Act** and Regulations to prohibit it (Page 89).

The Committee was disturbed at the extent and nature of administrative discretion given to officials involved in the immigration process, particularly immigration adjudicators. This is particularly worrisome in the case of persons wishing to enter Canada who are detained as suspected security threats. The Committee heard evidence of officials using their discretion to allow persons to go free, pending an immigration inquiry, who CSIS and the RCMP had identified as security threats and who they recommended should be detained. The Committee recommends that officials' discretion in this respect should be considerably narrowed (Pages 90 - 91).

The focus of much of the concern relating to the immigration process by Canadian and other governments' officials was our refugee determination process. One official characterized our refugee policies and procedures as "a gaping hole in our security system." The Committee divided on this issue. Some Committee members proposed improving the screening process and enhancing inspections at ports of entry. Other members thought it more feasible to streamline the refugee determination process and make it generally more viable and efficacious, thereby reducing the burden placed on the system. In particular, these latter members thought it important that persons be limited in their right to make multiple claims of refugee status after or before their initial claim is rejected (Pages 91 - 93).

Finally, under the **Immigration Act,** transportation companies, such as aircarriers, have a responsibility to ensure that non-residents trying to enter Canada have with them appropriate documentation. If the companies fail in their responsibilities due to lack of reasonable care and diligence, they may be liable for costs for return travel or accommodation in Canada. The Committee notes that Canadian governments have characteristically not enforced this policy as religiously as many other countries and suggests that they begin to do so. Further, the Committee proposes that transportation companies be required to collect the documentation of non-residents for return after debarkation in Canada. This would help discourage security threats who have no documentation, or who intentionally destroy their documentation en route to Canada (Pages 93 - 94).

Part IV THE ROLE OF THE MEDIA

Media coverage of terrorist incidents worldwide has been the subject of considerable comment and criticism. Much has been said about the relationship between terrorism and the media; little of that has been supported by objective, empirical analysis. The Committee noted, however, that criticism of media coverage of terrorist incidents was usually, but not exclusively, levelled at the broadcast media (Pages 100 - 101).

The Committee heard considerable testimony pro and con on the role of the media with respect to terrorism. On the positive side, witnesses pointed out that journalists are often the first contact for terrorists or potential terrorists (Pages 99 - 100); that media coverage can act as a safety valve during terrorist incidents because terrorists will sometimes settle for publicity rather than the violence they threaten (Page 100); and that objective, factual reporting of terrorist threats and incidents can sometimes assist authorities in resolving an incident and can help to reduce the environment of panic or terror (Page 100).

On the other hand, some witnesses claimed that terrorist acts rely on media coverage, without such coverage terrorism would not be "successful" and would wither (Page 101); that media coverage during an incident can provide terrorists with important intelligence (Page 102); and that media coverage can endanger lives and property and can impede the resolution of an incident (Page 103).

In Canada, there is no evidence that media coverage before, during or after a terrorist incident has, to date, cost lives or materially interfered with the resolution of an incident. The Committee, however, examined media coverage of several recent terrorist incidents in Canada and identified information broadcast during the incident that could have endangered lives or prejudiced the resolution of the incidents (Page 104). The way in which the police related to the media also left much to be desired and, in one instance, the police themselves released information that could have endangered lives (Pages 104 - 105).

Some witnesses--including one media representative--urged the Committee to propose legislation to govern media coverage of terrorist incidents. The Committee rejected legislation at the outset. In the Committee's view, any intrusion on the freedom of the press can only be justified under circumstances akin to wartime conditions. The Committee does not believe that the threat or incidence of terrorism in Canada presents or is likely soon to present such circumstances

The Committee examined a number of guidelines or policies of national media organizations and outlets on covering terrorist incidents. In the main,

these guidelines do not address some of the serious issues raised by recent media coverage of terrorist incidents in Canada and abroad. Perhaps because there have been relatively few terrorist incidents in Canada, some media people characterized the media and terrorism as a "non-issue" in Canada.

The Committee feels renewed attention should be given to the role of the media in covering terrorist incidents, in particular to police-media relations during an incident and to better and more comprehensive guidelines. The Committee prepared an outline as a base on which to begin discussions.* (Pages 110 - 113).

The Committee is under no illusion that implementation of even the most effective and comprehensive guidelines will reduce the number or severity of terrorist incidents in Canada, nor is the Committee under any illusion that guidelines will be religiously or universally respected. The existence of effective guidelines may, however, save a life or speed the resolution of a terrorist incident.

In the final analysis, however, when a terrorist incident occurs, the paramount consideration must be the resolution of the incident in such a way as to minimize danger to life or property. The primary responsibility for this lies with police officers. The Committee has concluded that to resolve a terrorist incident, law enforcement officers are not only permitted, but indeed have the obligation, to take and enforce whatever steps they deem necessary within the law to secure the situation as quickly as possible. The most practical and effective way to minimize media intrusion or inadvertence is for police to take immediate action to restrict the media's physical access to the scene. After the incident, the media will have an opportunity to appraise the methods by which police handled the incident.

Police must realize, however, that the media does form an integral part of any police strategy to handle a terrorist incident. Accordingly, the Committee strongly recommends that the federal government, through the Department of the Solicitor General and the RCMP, initiate discussions with representatives of national media organizations and outlets as well as selected provincial and municipal police forces to design practical guidelines. The Committee would like to see a process developed whereby police and media groups in an ever-

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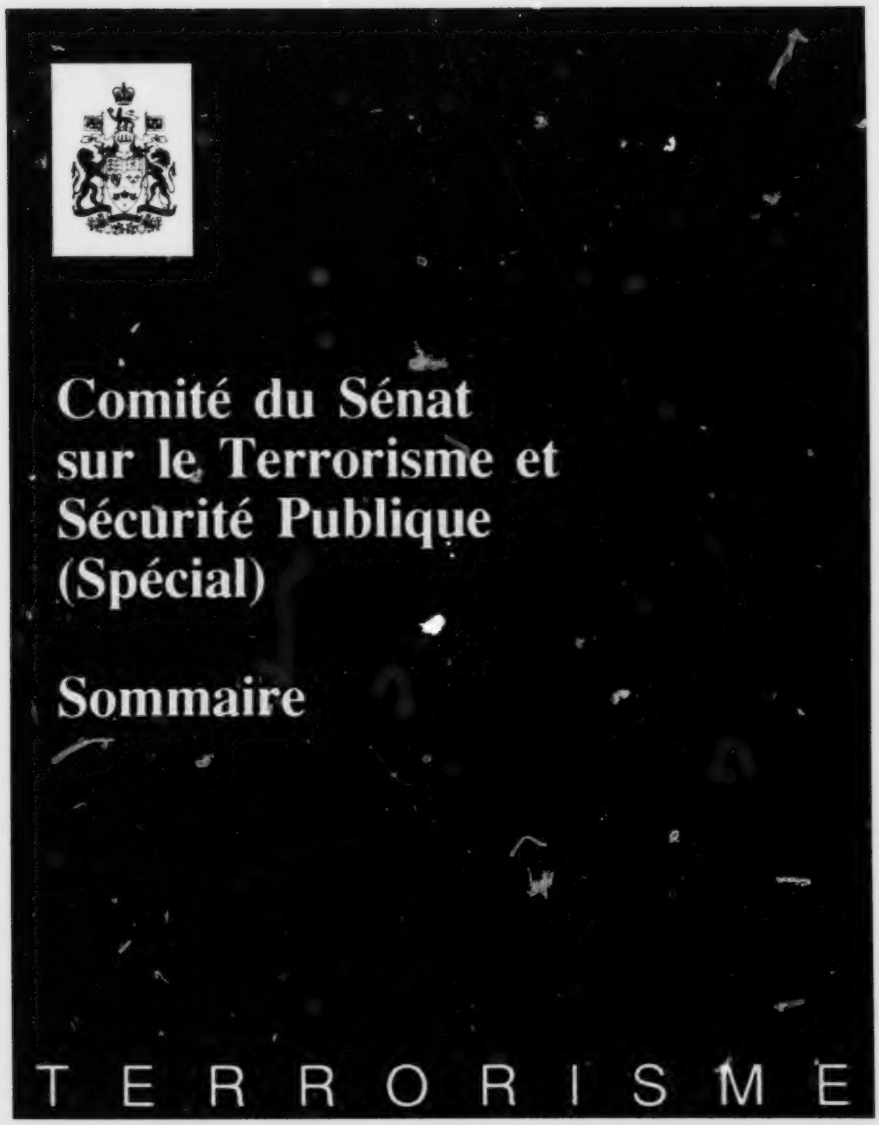
* Senator Fairbairn does not concur with the Report's treatment of "guidelines". She does not share the preoccupation of the Committee with outlining specific guidelines in the Committee's Report. In her view this is properly the responsibility of the media and the police, if such guidelines are ever to be effective. She also feels that it is urgent that discussions begin in a frank and practical manner between media and the police to reach a mutual understanding of their basic imperatives and areas of possible cooperation well in advance of a future terrorist incident.

growing number of centres reach agreements that are consistent and would eventually merge into national guidelines.

In the Committee's view it is imperative that these discussions occur soon, prior to a terrorist incident that results in problems that could have been avoided through implementation of such guidelines (Page 114).



Président
L'honorable William M. Kelly

Vice-président
L'honorable Daniel P. Hays

juin 1987

Comité du Sénat sur le Terrorisme et Sécurité Publique (Spécial)

Sommaire

TERRORISME

Membres du

COMITÉ SPÉCIAL DU SÉNAT SUR LE TERRORISME ET LA SÉCURITÉ PUBLIQUE

(en date du 12 mai 1987)

Président: l'honorable William M. Kelly

Vice-président: l'honorable Daniel Hays

Les honorables sénateurs:

Peter Bosa
Joyce Fairbairn
Jacques Flynn, c.p.
Colin Kenny
Finlay MacDonald (Halifax)
*Allan J. MacEachen, c.p. ou Royce Frith
*Lowell Murray, c.p. ou C. William Doody
Ian Sinclair

**Membre d'office*

Note: Les honorables sénateurs Cogger, Lucier, et Macdonald (Cape Breton) ont également siégé durant la deuxième session de la trente-troisième législature.

Ordre de Renvoi

Extrait des procès-verbaux du Sénat du mercredi 8 octobre 1986:

L'honorable sénateur Kelly, appuyé par l'honorable sénateur Tremblay propose:

Qu'un comité spécial du Sénat soit créé pour entendre des témoignages et étudier certaines questions concernant le terrorisme, en tant que menace réelle ou potentielle pour le Canada et pour les Canadiens;

Que le Comité examine la teneur et l'efficacité des lois, accords et ententes administratives actuels concernant la lutte contre le terrorisme, et qu'il formule des recommandations à cet égard;

Que le Comité examine le rôle que jouent les médias lorsqu'ils rapportent les mances et les actes de terrorisme, et qu'il formule des recommandations à cet égard;

Qu'ultérieurement huit sénateurs soient choisis et forment le Comité spécial;

Que le Comité soit autorisé à faire rapport périodiquement, à convoquer des personnes, à exiger la production de documents et pièces, et à faire imprimer au jour le jour les documents et témoignages qu'il juge à propos; et

Que le Comité fasse rapport au Sénat au plus tard le 2 juin 1987.*

La motion, mise aux voix, est adoptée.

Le greffier du Sénat
Charles Lussier

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* Sur ordre du Sénat émis le 12 mai 1987, la date limite du dépôt de la version finale du Rapport a été reportée au 30 juin 1987. Sur ordre du Sénat émis le 26 juin 1987, la date limite du dépôt de la version finale du Rapport a été reportée au 17 août 1987.

AVANT-PROPOS

Au moment où l'approbation a été demandée au Sénat pour la première fois pour entreprendre cette étude, il y avait eu plusieurs incidents terroristes majeurs au Canada ou qui impliquaient les canadiens. Depuis que l'étude a commencé, il n'y a pas eu d'incidents terroristes au Canada. Ceci ne veut pas dire, néanmoins, que le problème du terrorisme est disparu. Ceci veut dire que le Comité a bénéficié d'une période de calme relatif pendant laquelle il pouvait examiner les questions impartiellement et sans hâte.

Je suis sincèrement reconnaissant envers tous les membres du Comité, particulièrement le Sénateur Daniel Hays, Vice-président, pour leur patience et leur travail assidu durant un horaire chargé d'audiences qui s'adressaient à des questions très délicates et compliquées.

Le Comité désire présenter sa gratitude au greffier du Comité, John Desmarais, au conseiller légal du Comité, Don Macdonald pour son concours et ses conseils légaux et à C.G. Management and Communications Inc. de Toronto pour leur aide dans l'organisation des audiences, pour la recherche entreprise et pour la préparation et la publication du Rapport.

Le Comité désire aussi exprimer ses remerciements aux nombreux agents du gouvernement, aux agents qui appliquent les lois et aux autres témoins qui se sont présentés devant le Comité, dans quelques cas deux ou trois fois, sacrifiant souvent une fin de semaine ou du temps libre.

A certaines étapes du Rapport, le Comité a aussi bénéficié de l'avis et de l'aide du Dr. Thomas Mitchell, du Conference Board du Canada, du Dr. Maurice Tugwell, de l'Institut Mackenzie, du Dr. Ron Crelinsten, du Département de criminologie de l'Université d'Ottawa et du Dr. Michael Kelly et de Werner Schwantje.

W.M. Kelly,
Président

Ottawa, juin 1987

SOMMAIRE

Les pages suivantes résument les découvertes majeures et les conclusions exposées dans le Rapport du Comité du Sénat sur le terrorisme et sécurité publique (Spécial). En tant que résumé, elles ne contiennent pas tous les faits examinés par le Comité, le raisonnement derrière les recommandations ou les détails des observations et des recommandations qui ont été faites. Pour s'y référer plus facilement, les numéros des pages sont indiqués pour permettre de trouver les pages appropriées dans le texte du Rapport du Comité où les témoignages, les recherches, les observations et les recommandations sont discutés en détail.

INTRODUCTION

Sur le plan mondial, le Canada n'a pas, jusqu'à date, été la cible de menaces de terrorisme ou de violence significatives. Au moment où ce rapport est écrit, il n'y avait pas eu d'incident terroriste au Canada pour presqu'un an. Le nombre d'incident terroristes passés au Canada ou qui impliquent les canadiens est faible en comparaison avec le nombre d'événements terroristes en Europe, au Moyen Orient, dans l'Afrique du sud, et dans certaines parties des Amériques centrale et du sud. Le Canada n'a pas été non plus un refuge majeur ou une base pour les terroristes qui poursuivent des activités dans d'autres pays.

La première question qui s'adressait au Comité relevait du fait qu'il y a un manque de définition universelle ou même généralement acceptée pour le terrorisme ou une typologie du terrorisme (Page 3). De plus, le Comité a trouvé qu'il y avait une grande variation entre les diverses sources dans le nombre de menaces ou d'incidents au Canada attribués au terrorisme (Pages 6 - 8). Le Comité a conclu, néanmoins, que les événements terroristes au Canada ou qui impliquent les canadiens ont augmentés significativement pendant le dernier quart de siècle. Des faits disponibles, le Comité a conclu que cette tendance va sans doute continuer dans l'avenir prévisible.

Le Comité a conclu qu'il y a deux types de terrorisme qui forment principalement une menace aux Canada et aux canadiens: la menace majeure provient du terrorisme international, parce que le Canada devient un hôte réticent pour les groupes terroristes ou les incidents motivés par des situations passées ou présentes dans d'autres pays. Ces groupes ou incidents surviennent, en général, des extrémités radicales de trois groupes ethniques qui existent en nombre significatif au Canada et qui sont connus de la police, des agences du renseignement de la sécurité (Pages 8-9). La deuxième menace provient du terrorisme de l'intérieur, particulièrement des groupes radicaux racistes de tendances droitistes, des groupes radicaux pour la "libération des animaux" et les éléments extrêmes de certains groupes contre l'avortement. Le terrorisme associé à des causes ou à des griefs de tendance gauchistes au Canada semble être en voie de disparition, grâce en grande partie à l'efficacité de la police et au travail de détection (Pages 9-10).

Le Comité n'a pas retracé l'existence d'un montant significatif de terrorisme de l'état ou parrainé par l'état. Il a reçu, néanmoins, la preuve bouleversante d'activités d'agences de détection de certains gouvernements alliés au Canada qui prennent pour cible des individus ou des communautés ethniques considérés comme leur étant une menace. Le Comité trouve que de telles activités sont condamnables. Le Comité a aussi entendu des témoignages sur le fait que des agents de gouvernements étrangés avaient commencé ou avaient été impliqués dans des incidents terroristes récents. Le Comité n'a pas trouvé de preuve pour soutenir ses accusations (Pages 3-5).

La perception des canadiens du terrorisme et de la menace terroriste est influencée grandement par les menaces et les incidents terroristes qui arrivent à travers le monde, particulièrement par ceux qui touchent aux États-Unis et aux intérêts des États-Unis à l'extérieur du pays et tels que communiqués par les média des États-Unis. En fait, la menace terroriste au Canada est quantitativement et qualitativement différente de celle qui touche plusieurs autres pays, y compris les États-Unis (Pages 12-13). Les façons de lutter contre le terrorisme, ainsi, sont matériellement différentes au Canada de celles des États-Unis. En particulier, combattre la menace terroriste au Canada est premièrement une fonction de sécurité interne.

Dans son examen, le Comité n'a pas analysé ou fait des commentaires sur ce qu'on appèlle "les racines du terrorisme". Au lieu le Comité a considéré le terrorisme sous sa forme générique et a évité toute distinction qualitative entre les diverses motivations, causes, et les divers griefs et objectifs. Le Comité sera sans doute critiqué pour ce point de vue, mais a conclu que se pencher sur les racines du terrorisme ferait peu pour diminuer l'impact du terrorisme qui s'adresse principalement au Canada et aux canadiens (Pages 10-11).

Il serait regrettable si les Canadiens étaient sans peur du terrorisme. Tel que c'est arrivé dans d'autres pays, un incident terroriste ou une série d'incidents terroristes peut préoccuper ou paralyser un gouvernement et le faire sortir de son cours normal. Les réactions de gouvernements aux incidents terroristes sont souvent trop prononcées face à la menace actuelle ou à long terme. Le publique et les gouvernements doivent, alors, être préparés à donner une réponse à la fois mesurée et efficace au terrorisme n'importe quand ou n'importe comment il survient.

De plus, ce qui fait que la société ouverte du Canada est attrayante la rend aussi vulnérable aux attaques terroristes. L'infrastructure large et sophistiquée du Canada--ses aéroports, ses chemins de fer, ses centrales électriques et son système de télécommunications - fournit des cibles attrayantes. Les systèmes de transportation et de communications très spécialisés facilitent l'entrée et le départ et donnent accès aux nouvelles sur le plan local et universel (Pages 15-17).

C'était avec cette perspective que le Comité a entrepris son étude: pas pour alarmer ou exciter, mais pour revoir les politiques, les systèmes, les procédures et la législation actuels pour répondre aux menaces et aux incidents terroristes au Canada ou qui impliquent les canadiens à l'extérieur du pays, pour nous assurer que nous pouvons, en tant que nation, mettre sur pied des réponses efficaces. Suivant l'évolution du terrorisme sur le plan mondial, le Comité a pensé qu'un examen objectif et impartiel accomplirait plus et ferait plus qu'une enquête à la suite d'un incident imminent ou récent.

Partie I L'ENSEMBLE LÉGISLATIF

L'intérêt principal de plusieurs gouvernements s'est posé sur les accords internationaux pour combattre le terrorisme. Le Canada a joué et continue de jouer un rôle important dans la préparation de traités, d'accords et de conventions de plus en plus efficaces et complets.

La lutte contre le terrorisme sur le plan international se produit sur trois fronts. Le premier est basé sur le travail des agences du renseignement de sécurité qui surveillent les mouvements et les plans des terroristes et donnent aux gouvernements des mises en garde à l'avance sur des actions terroristes latentes ou qui vont sans doute se produire (Pages 20-21). Le deuxième front est basé largement sur les accords **ad hoc** entre les pays pour résoudre un incident spécifique de terrorisme qui impliquent les intérêts de plus d'un pays. Le troisième front est formé des traités, des accords et des conventions multilatéraux et complexes entre les pays (Pages 21-25), y compris les traités bilatéraux sur l'extradition (Page 25) qui ont trait à la gestion du terrorisme après l'incident.

A cause de la nature de la menace terroriste au Canada, néanmoins, les accords internationaux auront seulement un impact limité en d'adressant au problème canadien (Pages 29-31). La grande partie de l'attention du Canada devrait être dirigée vers la loi du pays, y compris les statuts fédéraux, les règlements et les accords fédéraux-provinciaux-municipaux.

Du point de vue du Comité, un ensemble de base efficace de lois fédérales existe déjà. Avec quelques modifications, ces lois peuvent être mieux adoptées pour combattre le terrorisme. Le Comité est grandement opposé à la préparation d'un ensemble de lois séparé contre le terrorisme au Canada et espère que le gouvernement va résister à toutes pressions dans cette direction. En tant que conclusion générale, le Comité pense que le terrorisme devrait être traité comme la criminalité pour les fins légales (Pages 33-34).

Le Comité recommande que le Cabinet accorde l'autorité nécessaire pour que le Groupe spécial d'intervention d'urgence (GSIU) puisse, si demandé par le gouvernement, entreprendre une attaque armée à l'extérieur du Canada (dans les eaux internationales, ou dans d'autres pays à l'invitation du pays même). Le Canada devrait aussi décrire les paramètres dans lesquels une telle opération pourrait avoir lieu (Page 35-36). Le Comité recommande aussi de la législation pour défendre l'importation, la production, la distribution et la vente de certaines publications, connues ordinairement comme les "manuels mayhems" qui pourraient être une source pratique pour les terroristes (Pages 36-37).

Plusieurs témoins qui se sont présentés devant le Comité et qui représentaient les communautés Sikh au Canada ont soulevé des fortes objections et inquiétudes au sujet du traité récent d'extradition que le Canada et l'Inde ont signé. Ils soutiennent que l'objectif du traité est de permettre au gouvernement de l'Inde dc tracasser et d'intimider les Sikhs au Canada. Le Comité a trouvé que ces inquiétudes n'étaient pas fondées et a noté que les seules demandes d'extradition sous le traité, jusqu'à date, ont été initiées par le Canada (Pages 31-32).

Le Comité s'inquiète au sujet du statut des accords fédéraux- provinciaux-municipaux, de la coordination et de la coopération sous la Partie IV de la **Loi sur le Service canadien du renseignement de sécurité**. De la coopération efficace et prompte entre les trois niveaux de gouvernement est vitale à la lutte du Canada contre le terrorisme. Les accords fédéraux-provinciaux sous le Paragraphe 61 (2) ont pris trop de temps à venir. Un accord avec le Québec est encore en attente. En général, les accords qui existent présentement sont larges, vagues et sans trop de signification. Des accords entre la GRC et les forces de polices des municipalités majeures pour permettre de mettre en vigueur les accords fédéraux-provinciaux ont encore à être décidés.

De plus, le Comité croit que les autorités fédérales sont trop confiantes dans leur perception du montant d'efficacité que les forces de police auront lorsqu'elle travailleront ensemble sous ces accords durant un incident terroriste. Le Comité s'inquiète beaucoup du fait qu'un incident terroriste dans un centre urbain majeur pourrait encore voir une répétion de ce qui s'est passé lors de la prise d'otages au Haut Commissariat de Bahamas en avril 1986, où des agents de la GRC et de la police d'Ottawa se sont engagés dans une dispute peu convenable et contre-productive au sujet de la juridiction.

Le Comité recommande que les agents fédéraux, en particulier la GRC, mènent leurs discussions et leurs négotiations avec les forces de police provinciales et municipales avec plus de flexibilité et qu'ils s'acheminent vers une coopération et une coordination pour la gestion de menaces et d'incidents terroristes, plutôt que simplement imposer la primauté fédérale (Pages 38-42). Dans le même sens, le Comité est troublé que, jusqu'à date,il n'y a pas eu d'entraînement conjoint entre le GSIU de la GRC et les équipes d'intervention d'urgence au niveau provincial et local. Le Comité trouve que cette situation et les raisons qui ont été invoquées ne sont pas acceptables et recommande que le Ministère du Solliciteur général et la GRC prennent l'initiative pour organiser des sessions d'entraînement conjoint tout de suite (Pages 42-43).

Le Comité a entendu des témoignages d'avocats de la Couronne se plaignant du manque de coopération du Service canadien du renseignement de sécurité durant les poursuites de terroristes suspects. Ils affirment que quelques fois la décision du SCRS de ne pas révéler des renseignements, ou le refus du SCRS de permettre à ses agents de témoigner rendent le fait de faire de réussir les poursuites plus difficiles et peut, en fait, miner le cas de la Couronne. Au moment ou ce témoignage était donné, il n'y avait pas eu de poursuites qui avaient échouées pour ces raisons. Depuis lors, il semble en avoir au moins une.

Ainsi, le Comité recommande que le Procureur général fédéral exerce son droit de prendre la responsabilité pour les poursuites pour une offense à la sécurité sous le Paragraphe 57 du la **Loi sur le Service canadien du renseignement de sécurité** n'importe quand si les renseignements ou les témoignages du SCRS (ou de la GRC) constituent un élément matériel pour le cas de la Couronne, spécialement si ces renseignements ou ces témoignages peuvent être retenus pour des raisons de sécurité (Page 43).

PARTIE II LES INSTITUTIONS ANTI-TERRORISTES DU GOUVERNEMENT FÉDÉRAL

La façon par laquelle le gouvernement fédéral est organisé pour combattre le terrorisme peut avoir été la question la plus importantes sur laquelle le

Comité s'est penché. La structure a changé depuis la crise du FLQ au Québec en 1970, mais surtout après 1984. Elle est à la fois large et compliquée, et nécessite plusieurs mécanismes de coordination et des "ministères en charge" (Pages 46-58).

Pour examiner la structure, le Comité s'est posé une simple question: "Est-ce que cette structure, telle qu'elle existe, peut fonctionner adéquatement?" La réponse générale du Comité est que, particulièrement pour la gestion d'une situation d'urgence terroriste, ce n'est pas possible. Il y a trop de ministères ou d'agences impliqués avec trop de possibilités pour du chevauchement, de la duplication d'efforts et des "luttes d'intérieur". Le ministère responsable pour la coordination de la réponse durant une situation d'urgence et les politiques et les procédures anti-terroristes est un ministère "junior" (le Ministère du Solliciteur général). Le Comité note que la réponse du gouvernement à deux incidents spécifiques de terrorisme a ignoré, d'une façon considérable, les processus et les structures nominalement en place. En toute honnêteté, néanmoins, quelques uns des arrangements et des responsabilités sont relativement neufs et n'ont pas encore été mis à l'épreuve.

Le Comité est arrivé à plusieurs recommandations après avoir examiné la structure actuelle et, avec les agents de la GRC et les agents du gouvernements, se servant de plusieurs scénarios hypothétiques pour vérifier le système:

Le Comité ne voit aucune raison de continuer la séparation entre l'opération du gouvernement fédéral de la protection civile et le centre de gestion pour les situations d'urgence pour les incidents et les menaces terroristes. Il recommande que ces fonctions soient combinées (Pages 59-60). Le Comité a aussi noté qu'il y a un nombre de "centres de gestion des situations d'urgence" dans les ministères et les agences fédéraux qui agiraient pour répondre à un incident terroriste. Il recommande qu'il y ait un centre de gestion des situations d'urgence centralisé dans le Bureau du Conseil Privé , pour être le centre des opérations pour la coordination et la gestion de la réponse du gouvernement fédéral pour les incidents terroristes au Canada et à l'extérieur du pays, ainsi que pour les désastres naturels, l'insurrection ou les attaques. Lorsqu'il serait en action, ce centre de gestion pour les situations d'urgences fonctionnerait sous l'unique direction et contrôle du Comité du Cabinet, Sécurité et renseignements (Pages 60-61, 63-64).

Le Comité a noté le nombre de ministères et d'agences impliqués de quelques façons dans la recherche de renseignements de sécurité et l'évaluation des menaces pour l'anti-terrorisme. Il s'inquiète des chances de paralysie pour la coordination de l'évaluation des menaces et pour s'assurer que les renseignements sont rapidement et efficacement transmis aux bonnes autorités. Le Comité recommande que le Secrétariat--enseignements et sécurité dans le Bureau du Conseil Privé soit aggrandi et augmenté afin de coordonner et de faire une analyse et une évaluation des menaces plus centralisées (Pages 61-62).

Le Ministère du Solliciteur général a reçu la responsabilité de coordonner les politiques et les programmes du gouvernement fédéral sur l'anti-terrorisme. Parce que cette fonction est relativement neuve, parce que le Ministère est un Ministère "junior" et à cause de la résistance de certains autres ministères, le Ministère du Solliciteur général n'a pas été capable de remplir ce mandat particulier. Le Comité a examiné avec soins mais a rejeté les suggestions que ce rôle soit transféré à un autre ministère ou au Bureau du Conseil Privé, mais recommande que le Ministère du Solliciteur général soit donné plus de ressources pour remplir cette fonction et que le Premier Ministre et les Ministres séniors donnent le soutien politique nécessaire pour confirmer et renforcer le mandat anti-terroriste du Ministère (Pages 69-70).

Le Comité a revu le raisonnement derrière la décision du gouvernement en 1986 de placer le groupe national anti-terroriste, le Groupe spécial d'intervention d'urgence (GSIU) avec la GRC. Il n'a pas trouvé les raisons convaincantes et recommande que le GSIU soit graduellement intégré aux forces de l'Armée canadienne (Pages 65-69).

Le Comité s'inquiète que la structure du gouvernement fédéral sur l'anti-terrorisme qui est maintenant en place est largement une conséquence d'arrangements et d'accords administratifs/bureaucratiques qui se sont implantés avec le temps avec peu ou sans base statutaire ou sans un examen minutieux ou l'accord ministériel. Ceci tend à rendre obscure la façon de se rapporter, particulièrement au Parlement. Le Comité s'inquiète aussi de ce qu'il a vu comme une surveillance politique inadéquate sur le fonctionnement du système, particulièrement par le Comité du Cabinet, Sécurité et renseignements (Pages 70-71).

PARTIE III LES POLITIQUES ET PROCÉDURES D'IMMIGRATION

Le Canada est en grande partie une nation d'immigrants; une société très multi-ethnique et multi-culturelle. L'immigration a été essentielle à la croissance du Canada et à sa prospérité et va continuer de l'être. Le Canada est un pays multiculturel qui s'est doté, au moins depuis la Deuxième Guerre Mondiale, et continue à se doter d'une réputation louable de l'immigration qui ne se préoccupe pas de la race, de la couleur, de l'idéologie ou de la religion. Le Comité n'était pas concerné par les politiques et les procédures de l'immigration, excepté pour les faits qui se rapportent à son mandat. Le Comité s'inquiète au sujet de la facilité avec laquelle les terroristes peuvent entrer au Canada avec les procédures actuelles d'immigration, y compris le processus actuel de vérification pour la sécurité.

C'est l'observation générale du Comité que les politiques et les procédures de l'immigration ont été préparées avant que le terrorisme international devienne une inquiétude majeure pour ceux qui élaborent les politiques. Comme conséquence, la direction de la législation actuelle est de protéger les droits individuels lorsqu'on examine les demandeurs qui veulent entrer au Canada. Lorsqu'elles sont examinées strictement de la perspective de l'anti-terrorisme, la complexité des politiques et des procédures actuelles, particulièrement celles qui s'adressent aux statut de réfugié, et les nombreuses voies de revue et d'appel inquiètent le Comité. Nos procédures d'immigration semblent être sur le bord d'un effondrement complet sous la pression du grand nombre de personnes qui veulent entrer au Canada. C'est une inquiétude particulière du Comité que les procédures actuelles ne peuvent pas, dans plusieurs cas, identifier , déporter, détenir ou refuser l'entrée de façon prompte et efficace aux terroristes ou aux personnes soupçonnées d'avoir des intentions ou des associations terroristes. Le grand nombre de personnes qui entrent au Canada met une surcharge énorme sur le système d'immigration, sur la police et sur les agences de sécurité, rendant cela très difficile de faire fonctionner un processus efficace de vérification pour la sécurité.

Il est difficile de faire des recommandations que vont accélérer le processus d'immigration et de recevabilité pour les réfugiés sans faire tort, ou apparaître faire tort, aux immigrants légitimes, en particulier les réfugiés. La capacité du gouvernement à initier des changements est, ainsi, contrainte et tout changement proposé du **statu quo** sera l'objet d'un examen minitieux du public et apportera peut-être une opposition vocale.

Le Comité a rejeté que le Canada exige des visas pour tous ceux qui veulent entrer au Canada, y compris les réfugiés. Du point de vue du Comité, cette exigence ne ferait qu'encombrer administrativement, aurait des implications négatives pour la politique étrangère et mettrait des refugiés ligitimes au risque. Le Comité pense, néanmoins, que c'est à la fois raisonnable et admissible d'exiger un visa de transit pour les pays dont le Canada exige un visa pour entrer au Canada (Page 91-92).

Une personne peut se voir refuser un visa pour entrer au Canada pour des raisons de sécurité, mais se présenter à n'importe quel point d'entrée, revendiquer le statut de réfugié et avoir le droit de rester au Canada pendant que sa demande est examinée. Le Comité trouve cette situation inacceptable et suggère des changements à la **Loi sur l'immigration** et aux Règlements pour défendre cela (Page 90-91).

Le Comité a été troublé par la nature et le montant de discrétion administrative donné aux agents impliqués dans le processus d'immigration, particulièrement aux arbitres d'immigration. Ceci est particulièrement inquiétant dans le cas de ceux qui veulent entrer au Canada qui sont détenus comme

menace soupçonnée à la sécurité. Le Comité a entendu des preuves que des agents se servent de cette discrétion pour permettre à des personnes de rester libres, en attendant une enquête d'immigration, qui ont été identifiés par le SCRS et la GRC comme des menaces à la sécurité et pour lesquelles ils ont recommandé la détention. Le Comité recommande que la discrétion des agents à cet effet devrait être rétrécie considérablement (Pages 92-93).

Le point qui a apporté beaucoup d'inquiétudes sur le processus d'immigration par les agents du Canada et de d'autres pays est notre processus de recevabilité pour les réfugiés. Un agent a caractérisé nos politiques et nos procédures sur les réfugiés comme étant "un trou grand ouvert dans notre système de sécurité". Le Comité s'est vu divisé par cette question. Des membres du Comité ont proposé qu'il fallait améliorer les processus d'examen et augmenter les moyens d'inspection aux points d'entrée. D'autres membres ont pensé qu'il fallait mieux améliorer le processus de recevabilité pour les réfugiés, le rendre plus viable et efficace, ainsi réduire la charge placée sur le système. En particulier, ces derniers membres ont pensé que c'était important que les personnes soient limitées dans leur droit de faire plusieurs demandes du statut de réfugié après ou avant que leur demande initiale soit rejetée (Pages 93-95).

Finalement, sous la **Loi sur l'immigration**, les compagnies de transportation, telles les lignes d'avions, ont la responsabilité de s'assurer que les non résidents qui veulent entrer au Canada ont avec eux les documents nécessaires. Si les compagnies échouent dans leurs responsabilités à cause du manque d'attention et de diligence, elles peuvent être tenues responsables pour le coût de la transportation pour le retour du passager ou pour son logement au Canada. Le Comité note que le gouvernement canadien n'a pas imposé cette politique aussi religieusement que dans plusieurs autres pays et suggère qu'il commence à le faire. De plus, le Comité propose que les compagnies de transportation collectionnent les documents des non résidents pour les redonner une fois qu'ils arrivent au Canada. Ceci aiderait à décourager ceux qui sont une menace à la sécurité et qui n'ont pas de documents, ou qui détruisent intentionnellement leurs documents en route au Canada (Pages 95-96).

PARTIE IV LE RÔLE DES MÉDIA

Les reportages d'incidents terroristes sur le plan mondial ont été l'objet de beaucoup de commentaires et de critique. Beaucoup a été dit au sujet de la relation entre le terrorisme et les média; peu qui a été soutenu pour une analyse objective et empirique. Le Comité a noté que, néanmoins, les critiques pour les reportages d'incidents de terrorisme étaient habituellement, mais pas exclusivement, orientés aux média électroniques (Page 103).

Le Comité a entendu plusieurs témoignages pour et contre le rôle des média en ce qui concerne le terrorisme. Sur le côté positif, les témoins ont fait remarquer que les journalistes sont souvent le premier contact pour les terroristes et les terroristes en puissance (Pages 101-102); les média peuvent agir comme une porte de sûreté durant les incidents terroristes parce que les terroristes vont souvent s'accommoder de la publicité plutôt que de commettre la violence qu'ils proposent (Page 102); et ces reportages objectifs, remplis de faits d'une menace ou d'un incident terroriste peuvent quelques fois aider les autorités à résoudre un incident et peuvent aider à réduire l'ambiance de panique ou de terreur (Page102).

De l'autre côté, quelques témoins ont affirmé que les terroristes se fient sur les reportages, et que sans ces reportages le terrorisme ne connaîtrait pas "le succès" et disparaîtrait (Page 103-104); que les reportages durant un incident peuvent fournir aux terroristes d'importants renseignements de sécurité(Page 105); et que les média peuvent mettre en danger des vies et de la propriété et retarder le fait de résoudre un incident (Pages 104, 105-106).

Au Canada, il n'y a pas de preuve que les reportages avant, durant, ou après un incident terroriste ont, jusqu'à date, coûté des vies ou interféré matériellement pour résoudre un incident. Le Comité, néanmoins, a examiné les reportages de plusieurs incidents terroristes récents au Canada et a relevé des renseignements des média électroniques durant un incident qui auraient pu mettre en danger des vies ou retarder le fait de résoudre un incident (Page 106-108).

Quelques témoins--y compris un témoin des média--ont incité le Comité à proposer de la législation pour gouverner les reportages d'incidents terroristes. Le Comité a rejeté le fait d'avoir de la législation de prime abord. Du point de vue du Comité, toute intrusion sur la liberté de la presse peut seulement être justifiée sous des circonstances qui sont semblables aux conditions de la guerre. Le Comité ne croit pas que la menace ou la fréquence du terrorisme au Canada ne présentent ou vont sans doute présenter de telles circonstances.

Le Comité a examiné un nombre de directives ou de politiques des organismes nationaux des média sur les reportages d'incidents terroristes. En général, ces directives ne s'adressent pas à quelques-unes des questions sérieuses soulevées par les reportages récents d'incidents terroristes au Canada et à l'extérieur du pays. Peut-être parce qu'il y a eu relativement peu d'incidents terroristes au Canada, quelques personnes des média ont caractérisé les média et le terrorisme d'être une question "non-existante" au Canada (Pages 108-109).

Le Comité pense qu'on devrait prêter une attention renouvelée au rôle des média dans les reportages sur les incidents terroristes, *en particulier* aux

relations police-média durant un incident et pour avoir des directives meilleures et plus complètes. Le Comité a préparé un ensemble de questions comme une base sur laquelle les discussions peuvent commencer (Pages 114-117)*

Le Comité n'a pas d'illusion que mettre en pratique les directives même les plus efficaces et les plus complètes va réduire le nombre ou la sévérité d'incients terroristes au Canada, et le Comité n'a pas non plus d'illusions que ces directives seront respectées religieusement ou universellement. L'existence de directives efficaces peut, néanmoins, sauver une vie ou sauver du temps pour résoudre un incident terroriste.

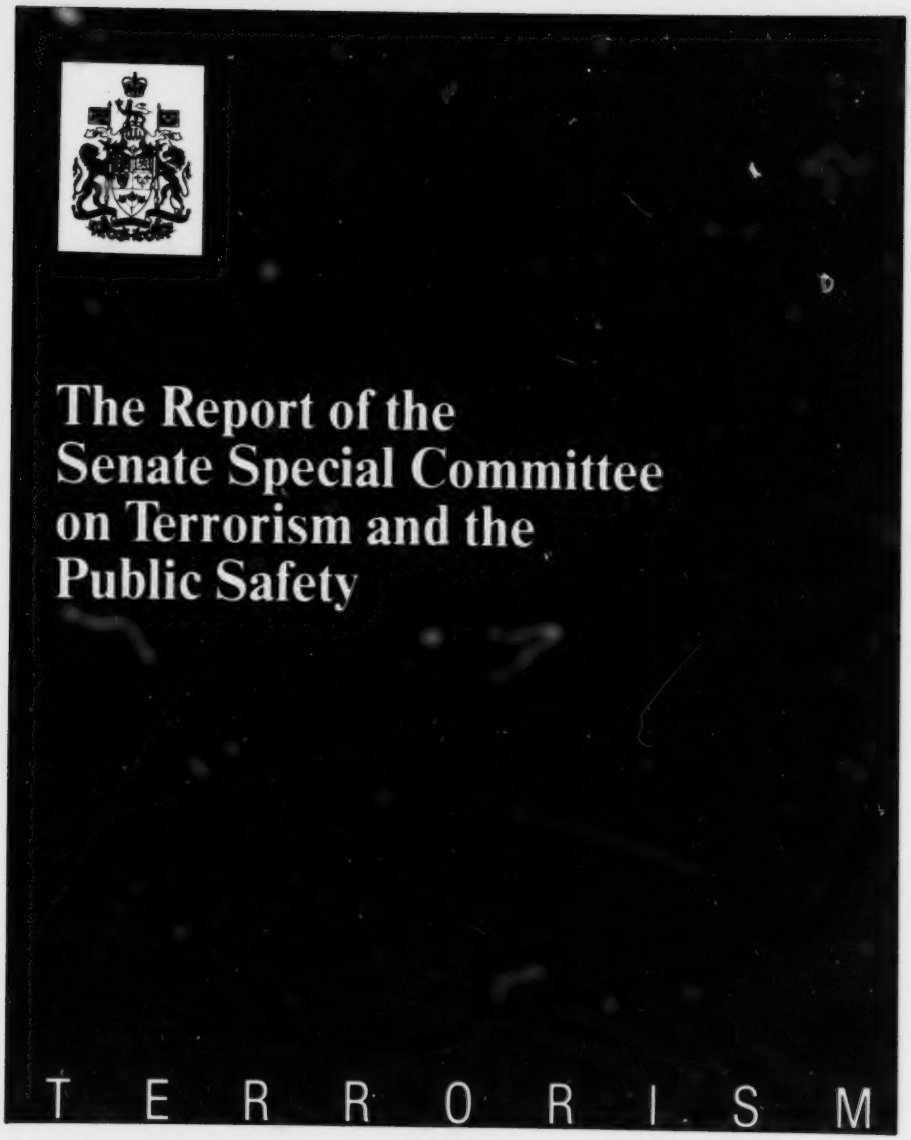
En dernière analyse, néanmoins, quand un incident terroriste arrive, la considération première doit aller au fait de résoudre l'incident de telle façon à minimiser le danger à la vie et à la propriété. La responsabilité première pour cela appartient aux agents de police. Le Comité a conclu que pour résoudre un incident terroriste, les agents qui appliquent la loi n'ont pas seulement la permission, mais ont aussi l'obligation, de prendre et d'imposer n'importe quels pas qu'ils pensent nécessaires à l'intérieur de la loi pour contrôler la situation aussi rapidement que possible. La façon la plus pratique et efficace de minimiser l'intrusion ou l'inadvertance des média est pour la police de prendre des actions immédiates pour limiter la présence physique des média sur les lieux. Après l'incident, les média auront l'opportunité de juger les méthodes utilisées par la police pour la gestion de l'incident.

Le police doit accepter, néanmoins, que les média forment une partie intégrale de toute stratégie de la police pour s'occuper d'un incident terroriste. Ainsi le Comité recommande grandement que le gouvernement fédéral, à travers le Ministère du Solliciteur général et la GRC, initie des discussions avec les représentants des organismes nationaux des média ainsi que des forces de police provinciales ou locales sélectionnées pour créer des directives pratiques. Le Comité aimerait voir un système se développer par lequel la police et des groupes des média dans un nombre toujours plus grand de centres pourraient en arriver à des ententes et pourraient ainsi créer des directives qui soient nationales.

Du point de vue du Comité, il est impératif que ces discussions aient lieu bientôt, avant qu'un incident terroriste arrive et crée des problèmes qui auraient pu être évités par la mise en vigueur de telles directives.

---

* Le Sénateur Fairbairn n'est pas d'accord avec la façon d'envisager les "directives" du Rapport. Elle ne partage pas la préoccupation du Comité d'établir des directives spécifiques dans le Rapport du Comité. De son point de vue, cela est clairement la responsabilité des média et de la police, si de telles directives doivent être efficaces. Elle pense aussi qu'il est urgent que les discussions commencent d'une manière franche et pratique entre les média et la police pour en arriver à un entendement mutuel sur les impératifs de base et les domaines possibles de coopération bien avant l'avènement d'un incident terroriste futur.



Chairman
The Honourable William M. Kelly

Deputy Chairman
The Honourable Daniel P. Hays

June 1987

The Report of the Senate Special Committee on Terrorism and the Public Safety

T E R R O R I S M

Chairman
The Honourable William M. Kelly

Deputy Chairman
The Honourable Daniel P. Hays

On peut se procurer des exemplaires en français, du présent rapport, auprès du greffier du Comité spécial du sénat sur le terrorisme et la sécurité publique, Ottawa, Canada K1A OA4.

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Membership

SPECIAL COMMITTEE OF THE SENATE ON TERRORISM AND PUBLIC SAFETY

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The Honourable Senators:

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Jacques Flynn, P.C.
Colin Kenny
Finlay MacDonald (Halifax)
*Allan J. MacEachen, P.C. (or Royce Frith)
*Lowell Murray, P.C. (or C. William Doody)
Ian Sinclair

**Ex officio* Member

Note: The Honourable Senators Cogger, Lucier, and Macdonald (Cape Breton) also served during the Second Session of the Thirty-third Parliament.

Order of Reference

Extract from the Minutes of the Proceedings of the Senate of Wednesday, October 8, 1986:

The Honourable Senator Kelly moved, seconded by the Honourable Senator Tremblay:

That a Special Committee of the Senate be appointed to hear evidence on and consider matters relating to terrorism as a real or potential threat to Canada and to Canadians;

That the Committee examine and make recommendations on the subject-matter and effectiveness of existing statutes, agreements and administrative arrangements pertaining to the combating of terrorist activity;

That the Committee examine and make recommendations on the role of the media in reporting terrorist threats and incidents;

That eight Senators, to be designated at a later date, act as members of the Special Committee;

That the Committee have power to report from time to time, to send for persons, papers and records and to print such papers and evidence from day to day as may be ordered by the Committee; and

That the Committee report to the Senate no later than June 2, 1987.*

The question being put on the motion, it was-
Resolved in the affirmative.

Charles Lussier
Clerk of the Senate

---

* By order of the Senate dated May 12, 1987, the date of tabling the final report was extended to June 30, 1987. By order of the Senate dated June 26, 1987, the date of tabling the final report was extended to August 17, 1987.

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FOREWORD

At the time approval from the Senate was first sought to undertake this study, there had been several major terrorist incidents in Canada or involving Canadians. Since the review began, there have been no terrorist incidents in Canada. This does not mean, however, that the problem of terrorism has disappeared. It did mean, that the Committee had a period of relative calm within which it could examine the issues dispassionately and deliberately.

I am sincerely grateful to all members of the Committee, particularly to the Deputy Chairman Senator Dan Hays, for their patience and hard work through an arduous schedule of hearings dealing with issues that are highly sensitive and complicated.

The Committee wishes to record its gratitude to the Clerk of the Committee, John Desmarais, the Committee Legal Counsel, Don Macdonald for his legal advice and assistance and to C.G. Management and Communications Inc. of Toronto for their assistance in organizing hearings, undertaking research and in the preparation and publication of the Report.

The Committee also wishes to express its appreciation to the many government officials, law enforcement officers and other witnesses who appeared before the Committee, in some cases two or three times, often giving up weekends and free time to do so.

At certain stages of the Report, the Committee also benefitted from the advice and assistance of Dr. Thomas Mitchell, Conference Board of Canada, Dr. Maurice Tugwell, The MacKenzie Institute, Dr. Ron Crelinsten, Department of Criminology, University of Ottawa, Dr. Michael Kelly and Werner Schwantje.

W.M. Kelly,
Chairman,

Ottawa, June 1987

PREFACE

On June 3, 1986 the Senate passed an Order of Reference to constitute a Special Committee on Terrorism and the Public Safety. That Order lapsed with the Prorogation of Parliament in August of that year. Accordingly, a new Order of Reference was presented to the Senate and approved on October 8, 1986. Committee hearings began on December 1, 1986 and extended through to May 21, 1987.

Prior to the commencement of Committee hearings, the Committee Chairman, some Committee members, and staff met privately and informally with a wide range of Canadian and other government officials, law enforcement officers, media representatives, members of ethno-cultural organizations, executives of private firms or associations, academics and commentators having a direct interest and involvement in the subject of terrorism. The purpose of these meetings was to identify the spectrum of views and perspectives on the subjects and issues to be examined by the Committee and the most effective people to speak to them.

Witnesses appeared before the Committee by invitation only. An invitation to appear before the Committee was extended, however, to any person, group or association that requested to appear. Witnesses who appeared before the Committee, together with individuals interviewed privately, are listed at Appendix A to this Report. In total, 83 witnesses appeared before the Committee and 70 were interviewed privately by the Committee Chairman, Committee Members or staff.

Structure of Hearings

In advance of the hearings, the Committee took the decision that all witnesses would be heard *in camera*, unless they requested their testimony be heard in public. This decision was based on advice and representations made to the Committee that *in camera* hearings would allow government officials and police officers to testify with more candour about the situation and the

problems and issues they confront. Further, government officials, police officers and others indicated that they would be able to provide certain information, or respond to certain questions, only in camera.

In preparation for hearings, the Committee divided its mandate into five subject areas or "modules", as follows: the nature and scope of the current and foreseeable terrorist threat to Canada and to Canadians; the framework of international agreements available or designed to counter terrorism; the federal government's counter-terrorism structure, Canada's immigration policies and procedures; and the role of the media in covering terrorist threats and incidents. An intensive and concentrated set of hearings, usually day-long sessions held on Fridays, Saturdays and Mondays, was then organized for each module.

Structure of the Report

The Report consists of an Introduction and four Parts, each based on and reflecting testimony heard during one of the five modules. The Introduction defines the terms used in the Report and sets out the Committee's general observations on the scope and nature of the terrorist threat to Canada on which many of the Committee's recommendations in the subsequent Parts are based. Aside from setting the stage for subsequent Parts and relating the Committee's views on the terrorist threat to Canada, the Introduction is intended as background for those readers who are new to the study of terrorism.

Parts I through IV each begin with a Summary reviewing the major findings of the Committee followed by a factual, descriptive section summarizing testimony made before the Committee or established through research and private meetings. The factual, descriptive sections of Parts I, II and III have been reviewed by the government departments and agencies involved to ensure their factual accuracy. Each Part ends with the Committee's detailed observations and recommendations.

Each Part is designed to be read independently of other Parts. While there is, of necessity, some duplication and overlap of coverage, wherever possible there is cross-referencing between Parts to minimize duplication.

Orientation of the Report

This Report goes to considerable lengths to provide extensive and detailed, factual information about the subjects under review. The Committee discovered that relatively little is currently in the public domain about, for example, how the federal government is organized to meet the terrorist challenge. The Committee wished to bring more of this information to the

public, hoping to encourage a better general understanding of the complexity of some of the issues involved, to encourage public discussion and to help the reader better understand the background to the observations and recommendations of the Committee.

Obviously, some information was disclosed to the Committee during *in camera* hearings that is not related in this Report. Information was withheld if the Committee thought its release could reasonably undermine authorities' ability to deal with terrorist threats and incidents.

INTRODUCTION

Summary

In a worldwide context, Canada has not, to date, been the focus of significant terrorist threats or violence. At the time of writing this Report, there had been no terrorist incident in Canada in nearly a year. The number of past terrorist incidents in Canada or involving Canadians pales in comparison to the number of terrorist events in Europe, the Middle East, southern Africa, or some parts of South and Central America. Neither has Canada been a major haven or base for terrorists conducting operations in other countries.

Terrorist events in Canada have, however, increased significantly over the past quarter century. Indications are that this trend will continue into the foreseeable future. The Committee has concluded that there are two types of terrorist threat to Canada: The major threat is from international terrorism, where Canada has become the host for terrorist groups or incidents motivated by past or present situations in other countries. The secondary threat is from domestic terrorism, having as its focus situations in Canada. The Committee does not feel that state or state-sponsored terrorism has, or is likely to have, a significant, direct impact on Canada.

It would be regrettable were Canadians to be sanguine about terrorism. As has been demonstrated in other countries, one terrorist incident or a series of related terrorist incidents can preoccupy or paralyze a government and deflect it from its course. Governments' reactions to terrorist incidents are often far out of proportion to the actual or long-term threat imposed. The public and governments must, therefore, be prepared to make both an effective and a measured response to terrorism whenever and however it occurs, consistent with civil liberties and due process of law.

Furthermore, the same features that make Canada's open society attractive to live in make it vulnerable to terrorist attack. Canada's large and sophisticated infrastructure--its airports, railways, power plants and telecommunications networks--provide attractive targets; and Canada's advanced transportation and communications systems facilitate entry and escape and provide access to local and worldwide media coverage.

It was with this perspective that the Committee undertook its study: Not to alarm or excite, but to review the current policies, systems, procedures and legislation for responding to terrorist threats and incidents in Canada or affecting Canadians abroad, to ensure that we can, as a nation, mount effective responses. Given the development of terrorism worldwide, the Committee felt that an objective and dispassionate review would accomplish more than an inquiry driven by an imminent or recent incident.

The Committee's Approach to its Review of Terrorism

It is often said that "one man's terrorist is another man's freedom fighter." The Committee, however, avoided any qualitative assessment or typological classification of the plethora of terrorist groups, grievances or causes . It was not within the Committee's mandate to analyze the rationale or motivations of any terrorist group or to distinguish between terrorists' objectives that might be supported by Canadians and those that might not.

The Committee heard testimony that some Canadians might condone certain terrorist acts because of sympathy or support for the terrorists' grievance or ultimate objective; the end justifying the means. For example, some Canadians who oppose the apartheid policies of the current South African government might condone terrorism in South Africa or elsewhere by radical anti-apartheid groups; some Canadians might provide financial support or other forms of assistance to the Irish Republican Army (IRA) in support of the IRA's objectives; and a range of groups and individuals apparently provided intellectual and tangible support to the activities of the FLQ in Quebec. The Committee also found it disturbing that some groups or individuals distinguished between outright violence and criminal acts stopping short of violence, saying that they could never condone the first, but could condone the latter under certain circumstances. **In the Committee's view, all terrorist criminality and violence in the Canadian context are wrong and reprehensible. When Canadians condone terrorist acts for whatever reason, terrorism as a strategy is strengthened. In this regard, the Committee suggests that it is short-sighted and counter-productive for the Canadian government to recognize any**

state or group that explicitly condones terrorism. To do so runs the risk of undermining Canada's strong and unequivocal stance against terrorism in Canada, or elsewhere.

The Definitional Problem

In his book Political Terrorism: A Research Guide to Concepts, Theories, Data Bases and Literature (1983), Alex Schmid cites 109 definitions of "terrorism".* The definitional problem is both serious and frustrating and one of the more difficult met by the Committee. There is no consensus in international or domestic law, among commentators, or in the counter-terrorist and anti-terrorist community on a definition or typology of terrorism. In any event, trying to distinguish between types of terrorism is a hopeless exercise: fine definitional lines tend to blur in practice. With this definitional problem in mind, however, the Committee reviewed the three types of terrorism that are usually described as generic to assess their impact on Canada: State terrorism, state- sponsored terrorism and agitational terrorism.

State and State-Sponsored Terrorism

The Committee received testimony about the significance of state terrorism and state-sponsored terrorism worldwide. State terrorism is usually defined as the violent repression by national governments of domestic or external opposition, or of individuals or groups perceived as threats to the state or to the current political leadership of the state. Although there have been disquieting examples of harassment of certain groups and individuals in the past, **the Committee found no evidence of state terrorism in Canada on any kind of frequent or systematic basis.**

State-sponsored terrorism is usually defined as individual states providing tactical, financial, logistic, training, intelligence or other support and assistance, directly or indirectly, to terrorist groups in order to subvert or harass other state governments, or to create a climate of confusion to exploit for the foreign policy objectives of the sponsoring state.

Several commentators** on the subject suggest that state-sponsored terrorism is the source of much of the world's terrorism and has become a

---

* pp. 119-152

** See for example, Claire Sterling, The Terror Network, Berkley Books, New York, 1986; and statement by Parker W. Borg, Deputy, Office of the U.S. Ambassador at Large for Counter-Terrorism, to the U.S. Subcommittees on Arms Control, International Security and Science and on International Operations of the House of Representatives Foreign Affairs Committee, February 19, 1986.

major ingredient in the foreign and military policies and tactics of certain governments. The Committee received testimony from a number of witnesses and sources that state-sponsored terrorism is a significant factor in Canada, but received no objective, third-party validation of the claims made. The Committee also heard testimony from several sources that operatives of foreign security and intelligence agencies located in Canada had infiltrated a number of ethno/cultural groups in Canada and had, from time to time, acted as "agents provocateurs" within those groups. Their activities were alleged to incite terrorist acts by radicals in order to discredit the groups and their objectives.

The Committee found no evidence of foreign governments' agents acting as "agents provocateurs" within Canada. In fact, the Committee is convinced that such activities, by risking Canadian surveillance, would be counter-productive to the operations and objectives of such agents in Canada. **Accordingly, from evidence and information made available to it, the Committee discounts state-sponsored terrorism, at least in the extent to which it impacts on Canada and Canadians.**

The Committee was, however, made aware that a few allied governments undertake monitoring, surveillance and mild forms of coercion in Canada. These activities are usually conducted by the governments' respective security and intelligence organizations and are focussed on Canadian citizens, landed immigrants, refugees or visitors who are perceived as being, in some way, a threat. Such activities may also be directed towards persons who play a prominent role in ethno/cultural groups in Canada that are of interest or concern to the home government.

The Committee finds such activities reprehensible. They are a major infringement of Canadian sovereignty and of the civil liberties of the targeted individuals.

Agitational Terrorism

In view of the evidence presented to it, the Committee focussed on what is usually referred to as "insurgent" or "agitational" terrorism: terrorist actions advanced by non-state actors.

The Committee adapted a definition provided by Dr. David Charters, a recognized Canadian authority on terrorism:

> Terrorism is the threat or use of violent criminal techniques, in concert with political and psychological actions, by a clandestine or semi-clandestine armed political faction or group with the aim of creating a climate of fear and uncertainty, wherein the ultimate target (usually one

or more governments) will be coerced or intimidated into conceding the terrorists their specific demands, or some political advantage.*

Within this broad definition, some illustration of the terrorists' tactics and strategies may be helpful:

- Terrorists are motivated essentially by political causes or objectives, either past (such as some form of state repression, including torture or genocide), present (such as a desire for a native homeland) or future (such as the amelioration of economic well-being or civil rights).

- The ultimate focus of terrorist acts is, therefore, usually on governments; either the government directly implicated, or on other governments who may be in a position to exercise influence.

- Terrorists frequently try to force governments to make concessions, or try to paralyze or embarrass governments or force them to overreact. By overreacting, governments may give more prominence to the group or incident than either merits, or may promote sympathy and support for the group.

- The success of terrorism relies to a considerable extent on four factors: the public response, the political response, the reaction of law enforcement authorities and the role of the media in publicizing and perhaps dramatizing the incidents or the causes.

- Although terrorist attacks from time to time involve government officials and installations, the most likely targets are private citizens and public installations who are usually more vulnerable. While the ultimate focus is government, the route is through the citizenry which government is obligated to protect. Governments will, therefore, go to considerable lengths to resolve a terrorist incident--lengths to which they would probably not go to resolve a similar, but strictly criminal, incident.

- Terrorist acts may appear to be irrational and random. In fact, they are usually rationally conceived and targets are carefully chosen for their vulnerability and symbolic value. In the main, terrorism is episodic and most terrorist groups are small and transitory, especially in Canada.

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* Senate House of Commons, Minutes of Proceedings of Joint Committee on Canada's International Relations, Issue Number 46, Monday, March 10, 1986, p.46.6 Adapted from the original.

The Extent and Nature of the Domestic and International Terrorist Threat to Canada and Canadians

The Committee focussed on two types of agitational terrorism as having particular relevance and concern to Canada.

First, **Domestic Terrorism** which includes violent acts or threats of violence by terrorist groups in Canada against Canadian targets in order to focus on domestic issues that can be resolved by the Canadian government.

Second, **International Terrorism** which includes violent acts or threats of violence by terrorist groups in Canada, using targets in Canada or using Canada as a base to mount terrorist actions in another country. The cause or grievance springs from past or current actions or situations in another country and the ultimate focus is on that other country's people and government.

The Committee followed several avenues to try to obtain an accurate and objective assessment of the frequency, type and severity of domestic and international terrorist acts in Canada. The Committee found only two non-government compilations of terrorist acts focussing exclusively on Canada. One inventory, prepared by a Canadian graduate student at the University of Colorado, is reproduced at Figure 1. It refers to all acts of "terrorism"* reported in Canadian newspapers during the period 1960-1985. A total of 399 terrorist events were identified, of which the majority (351) were classed as domestic incidents. Because the figures reflect newspapers' selection of events, the graph should be read with caution. Furthermore, it does not make qualitative distinctions: A bomb exploding in a mail box and doing little damage to property or persons may be equated with a bomb that destroys a building and kills or injures several people. Finally, any trend analysis based solely on linear, quantitative data such as this is open to manipulation or misinterpretation, either at the collection or analysis stage.** In this regard, the Committee was struck by the wide variation in the statistics presented by different witnesses and by the facility with which similar statistics could be interpreted in widely divergent ways.

Figure 1 is included here for illustrative purposes only, particularly because the results are so similar to worldwide trends. For example, according to the graph, the number of terrorist incidents peaked in Canada in the period

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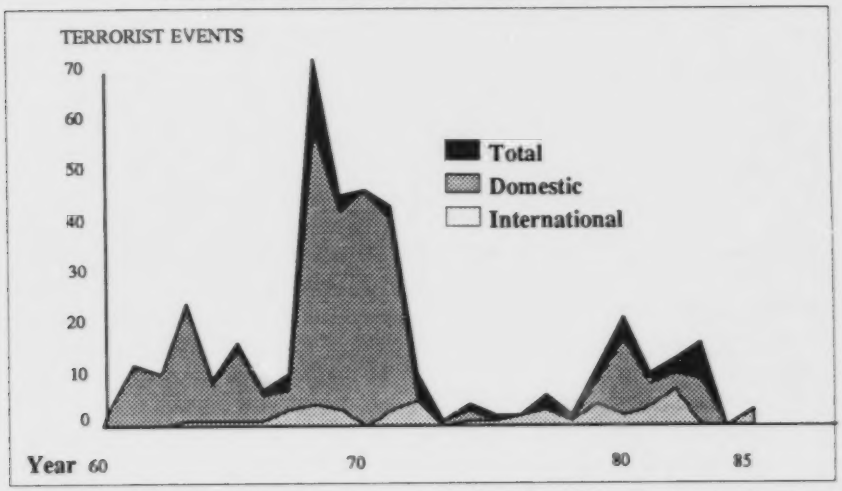
* As defined by Schmid, op sit, p. 110.

** For example, in early 1981, the CIA changed its criteria for data collection on incidents of international terrorism shortly after the Reagan administration announced that international terrorism would replace human rights as the central element in U.S. foreign policy. The result of this change was that the number of incidents recorded by the CIA in its chronology was doubled. Comments by Dr. Ronald D. Crelinsten at the Conference on "Domestic Security: Issues for Democracy", Osgoode Hall Law School, 8-9 May, 1987.

FIGURE 1

Terrorist Incidents in Canada 1960 - 1985



Year	Domestic	International	Total
60	3	0	3
61	12	0	12
62	10	0	10
63	24	0	24
64	8	1	9
65	15	1	16
66	6	1	7
67	7	3	10
68	68	4	72
69	42	3	45
70	46	0	46
71	40	3	43
72	5	5	10
73	1	0	1
74	3	1	4
75	1	1	2
76	0	2	2
77	3	3	6
78	1	1	2
79	17	4	21
80	8	2	10
81	10	3	13
82	9	7	16
83	12	0	12
84	0	0	0
85	0	3	3
Total	**351**	**48**	**399**

Source: Jeffrey Ross, University of Colorado

1968-1972 and, to a lesser extent, during the periods 1961- 1967 and 1979-1983. These correspond to international trends where, both in the late Sixties and in the early Eighties, worldwide terrorism increased significantly in response to developments in the Middle East.*

The second non-governmental compilation reviewed by the Committee was a study by Dr. David Charters covering the period 1966-1986. It identified, from public sources, a total of 80 terrorist incidents in Canada or affecting Canadians: 49 fit the Committee's definition of international terrorist incidents; seven were domestic; the remainder were not identifiable.**

These compilations were compared to a list of terrorist incidents during the period 1980 through 1986 prepared by the Canadian Security Intelligence Service (CSIS). The CSIS inventory includes a total of 35 terrorist incidents in Canada during that period, of which 11 were incidents of domestic terrorism under the Committee's definition and 20 of international terrorism.*** The remainder were unclaimed.

The Committee was unable to obtain, either from law enforcement or intelligence-gathering agencies, data on the number of terrorist threats that were thwarted during any particular period. In fact, the Committee was told that neither government nor non-government agencies maintain a comprehensive and realistic inventory of thwarted or aborted terrorist attacks or incidents. The Committee noted, however, that both the U.S. State Department and the FBI maintain and publish such an inventory.

Although there appears to be a consensus among policy-makers, security and intelligence officials and law enforcement authorities on the extent and nature of previous terrorist incidents, evidence made available to the Committee suggests that this consensus is largely subjective and is not based on common, comprehensive and objective data. Based on evidence provided to it, however, the Committee has concluded the following: Terrorism presents one of the principal security threats to Canada today in terms of immediacy, but not severity.

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* The tactics currently used by terrorists (kidnapping, hijacking, extortion, murder) are not new and have simply been adopted and adapted by terrorists. Neither is terrorism new. The first recorded "terrorist" actions were those mounted by the Jewish Zealots opposing the Roman occupation of Palestine and the introduction of idolatry in the First Century A.D. A terrorist group active today in Lebanon and elsewhere--the Islamic Jihad group within the Shi'ite Muslim sect--originates from the Medieval Assassins cult.

** "Canadian Security Intelligence Problems in Historical Perspective", Dr. David A. Charters, Paper presented at the Confgerence on Intelligence and Policy, 27-28 August, 1986, Appendix 2.

*** The principal sites of the incidents were: Montreal (13), Toronto (7), Ottawa (5), Winnipeg (2), Vancouver (1) and several other locales in British Columbia (5). Note the discrepancy between the Ross and the Charters data.

International Terrorism is and is likely to be for the foreseeable future the major source of terrorist incidents in Canada, at least in terms of severity and impact. In addition to reacting to events or circumstances outside Canada, international terrorist groups operating in Canada often rely on support and assistance of various kinds provided by kindred groups abroad.

The current threat originates primarily from three ethnic groups in Canada, each reacting to a past, current or evolving situation in their country of origin. Each of these groups houses radical fringe elements that have been responsible for several recent terrorist incidents in Canada, or involving Canadians abroad. These radical groups are well-known to police and security officials. The Committee has decided not to identify them in this Report lest the ethnic groups be unfairly branded as terrorists due to the actions of a small minority of their members.

In the Committee's view, international terrorism presents a major challenge to Canada, to Canadian policy, to intelligence and to law enforcement, currently and for the foreseeable future.

Domestic Terrorism has taken a significant toll in Canada, particularly during the height of activities by the FLQ. Those activities were, of course, concentrated in one province (Quebec) and largely in one city (Montreal). Since then, the impact of domestic terrorism has waned. Those groups that have recently been, are currently viewed to be, or could in the immediate future become sources of domestic terrorism in Canada include radical left-wing/anarchist groups, extreme elements of certain anti-abortion groups, extremist right-wing/racist groups* and radical "animal liberation" activists. (Because of the philosophy of the animal liberation groups, their actions are likely to stop short of violence directed at people, but could well include criminal acts including violence involving people.)

To date, domestic terrorist groups have been relatively unsophisticated and intelligence and law enforcement officials have been commendably efficient in neutralizing them. During the 1960's and 1970's there was evidence that certain domestic terrorist groups were being trained by Cubans in Cuba, by the Palestinian Liberation Organization (PLO) in Lebanon and at Finsterwald, East Germany. The Committee has been informed by security and intelligence officials, however, that such training has been discontinued.

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* The distinction between right and left-wing terrorism should not be over-emphasized. Recent studies suggest that the two "extremes" may blend and cooperation and assistance could occur between them. See, for example, Bruce Hoffman, Right Wing Terrorism in West Germany, Santa Monica, California, The Rand Corporation, 1986, p.p. 8-14.

Although most domestic terrorist groups do not have international connections, the Committee heard disturbing testimony about the developing relations, largely with U.S.-based groups, by right-wing/racist and animal liberation groups developing in Canada. These international connections provide an infrastructure of financial support and training that enhances significantly their sophistication and potential impact.

In any event, the absence of international support, connections and training should not lead Canadians to conclude that groups operating in Canada will remain at a low level of sophistication. Various "terrorist manuals", many prepared by or based on the experience of highly-sophisticated and well-organized groups, are readily available.* These "manuals" provide down-to-earth information on terrorist tactics and weapons and can help even the smallest and most poorly-financed group attain a reasonable level of sophistication and technical proficiency. In this regard, Canadian terrorists follow a common pattern by resorting largely to explosive bombs. Bombs are relatively easy to manufacture, cheap, low-risk and yet quite deadly. The technology to manufacture bombs is not difficult and is readily available in many of these "terrorist manuals".

The impression left with the Committee is that policy-makers, police and security and intelligence officials have international terrorism as their principal focus. The Committee agrees with this priority, but is concerned that the rising threat from domestic terrorism, particularly right wing terrorism, not be ignored.

Addressing the "Root Causes" of Terrorism

The Committee heard testimony from a number of witnesses that the most effective, long-term solution to the problem of terrorism lies in the settling of the grievances that are the "root causes" of terrorism. These grievances may run the gamut of a homeland for Palestinians, recognition of the Armenian genocide of 1915, the creation of an independent, self- governing state of Khalistan to youth unemployment, farm foreclosures, general socio-economic conditions and so on.

While reviewing and analyzing the various sources of terrorism, the tactics used and the nature of the threats posed, the Committee explicitly avoided a detailed review and analysis of the various causes of terrorism. Instead, the Committee treated terrorism generically and did not distinguish among the various causes, motivations, grievances and objectives.

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* See Part I, p. 35 for examples of such "manuals".

The Committee will be criticized for this approach. In the Committee's view, however, trying to address the root causes of terrorism, whatever they might be, will do little to lessen the incidence of terrorism as it affects Canada and Canadians. The Committee's reasoning is as follows:

First, the Committee's judgment is that the most significant source of terrorism affecting Canada and Canadians is "international", relating to causes and grievances in which Canada has no direct part and over which Canada cannot have an impact greater than it has had or is currently having. In fact, for Canada to attempt to intervene in many of these matters would be interpreted as foreign interference in the domestic affairs of other countries. Canada, therefore, can do little more than it is already doing to resolve the root causes of terrorism worldwide.

Second, the Committee agrees with current policy that terrorism cannot be, or be perceived to be, "successful". A resort to terrorism should result in a group being ostracized and its cause or grievance discredited. The best policy against terrorism is to ensure that the perpetrators do not profit from terrorism.

Further, if a terrorist group is successful in the achievement of its current objective, that success could well lead the group to use terrorism to obtain other objectives not previously on the agenda of demands.

Third, when a grievance stems from a past or current situation abroad, the settlement of that grievance in the home country may not be accepted as a fair or adequate settlement by expatriates in Canada. The fringe radicalism in some groups in Canada could well continue, motivated by internal tensions and disagreements. The causes espoused by expatriate groups sometimes develop a life of their own, often motivated more by sentimentality and internal group dynamics, than by a current and accurate feeling for developments in the homeland.

Finally, the Committee does not believe that, terrorists are altruistic but misguided idealists driven by grievances or oppression to obtain a higher good for the group or community they claim to represent. In fact, many individuals are driven to terrorism to secure power and prestige within their groups, their countries or on the international stage. For such terrorists, the grievances or causes they espouse are but excuses for their violent, criminal behaviour. Resolving or addressing these grievances will do little to satisfy or neutralize such terrorists for they will be reluctant to foreswear terrorism if it means giving up the power and prestige terrorism brings.

Canada in the Context of Worldwide Terrorism

Terrorism is often defined in the minds of average Canadians by our perceptions of terrorism as it impacts upon the U.S. and as communicated by the U.S. media. In fact, the nature of the terrorist threat to Canada is quite different from that of the U.S.

While the majority of incidents directly affecting Canada has occurred in Canada, or at least has been initiated here, according to U.S. State Department figures, terrorist incidents affecting the U.S. tend largely to be organized and occur **outside** of the U.S. According to U.S. State Department figures, the number of incidents occurring within the U.S. declined in 1985 to a total of seven, down from a high of 51 in 1982. On the other hand, in 1985 there was a total of 177 terrorist incidents abroad directed at U.S. nationals or facilities.* Further, a minority of terrorist events affecting Canada and Canadians has as its ultimate target or focus a desire to change Canadian government policies, positions or activities. The majority of incidents directly affecting U.S. nationals or interests are directed at the U.S. government and its real or perceived policies and activities.

While there is no evidence that state-sponsored terrorism is a major source of terrorism affecting Canada and Canadians, the U.S. government believes that state-sponsored terrorism has been the dominant factor in attacks against U.S. citizens and establishments abroad and has identified the regimes in Iran, Libya, Cuba, Nicaragua and Syria as being the principal protagonists. "Middle East-related terrorism", arising from a number of disputes, of which the Israeli-Palestinian conflict is only one, continues to be the major factor in terrorist actions directed at U.S. interests.** There have been very few such events in Canada, or directed at Canadians.

Finally, the U.S. is more vulnerable to terrorist attacks abroad, not only because of its worldwide prominence and power, but also because of the visibility of the U.S. abroad through its military, diplomats, businesspeople, tourists, investments and foreign assistance projects; because the U.S. media tend to focus on attacks involving Americans more than on other attacks; and because there are larger numbers of Americans travelling for business or pleasure than other nationalities.

These major differences between Canada and the U.S. illustrate a need for different policy and operational responses. For example, the U.S. can rarely

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* Source: Address to the U.S. Conference of Mayors, San Juan, Puerto Rico, by Robert Oakley, Acting U.S. Ambassador at Large for Counter-Terrorism, June 16, 1986.

** Robert Oakley, Ibid.

intercede directly in the resolution of a terrorist incident or achieve major gains in the fight against terrorism without substantial cooperation and assistance from other governments and through bilateral and multilateral agreements and organizations. In Canada, the resolution of the terrorist problem tends more to be a matter of internal security, although Canadian police and security agencies will continue to rely on intelligence provided by their opposite numbers in other countries.

In a similar vein, the terrorist problem in Canada differs in material respects from the terrorist problem in Europe and Britain. The international terrorist threat to these countries is more analogous to that of the U.S. In addition, these countries have a more serious domestic terrorist problem spawned by socio-economic and class divisions that are largely absent from Canada. Furthermore, there are within several of these countries highly-trained and militarized "secessionist" groups, such as the Irish Republican Army in the United Kingdom and Basque ETA groups in Spain.

The point behind these comparisons is to dispute any notion that Canada need simply adopt the counter-terrorist policies and procedures of other Western states. The problem of terrorism in Canada is, in the main, different. It springs from different sources and has different objectives and tactics. Furthermore, because the incidents occur largely within our own borders, the means to respond are, to a considerable extent, more within our direct control.

The Canadian Context: Historical

During its hearings the Committee heard many explanations for Canada's relative freedom from terrorist attack. The explanations largely encompassed what is referred to as the "peaceable kingdom theory" and included the following elements:

History: Several witnesses contended that Canada's recent history has been relatively free from episodes of insurrection, revolution and domestic warfare. The resolution of political issues through violence, rather than accommodation and peaceful negotiation, was held to be foreign to Canada's post-Confederation history.

Culture: According to several witnesses, Canada's cultural composition has emphasized order, peace and non-violence in domestic and international relations and in the resolution of disputes. These witnesses suggested that Canada has also tended to be an egalitarian society, without major differences or irritations on class or cultural lines and with a healthy respect for institutions, civil rights and the rule of law.

Economic: Traditionally and notwithstanding regional disparities, several witnesses suggested that Canada has been a wealthy country without the major pockets of poverty or the major, obvious divisions, socio/economic classes or between rich and poor that lead to internal strife.

Government: Canada has a stable and working democratic government, with an institutionalized and active opposition as a mechanism of expressing dissent.

Free Press: A number of witnesses pointed out that Canada's free press can provide an instrument of dissent and also can be an instrument to promote social change and the resolution of social and economic irritants.

While recognizing that the systematic, organized commission of violent acts against innocent persons for political purpose has been, by and large, not part of the Canadian culture, the Committee noted that academic research* suggests that collective political violence in Canada has a frequency and impact far greater than most Canadians imagine.

The Committee concluded that Canada's relative freedom from terrorism was due more to other factors, namely:

Geography: Canada is far away from the major terrorist "hot spots" of Western Europe, the Middle East and South and Central America; and

Foreign Policy: Governments in Canada have not traditionally followed aggressive foreign policies that have been likely to become the focus of international terrorists' attention. Canada does not have an imperial past or anything that could be characterized as an imperial foreign policy. Canada has played important roles in international organizations such as the U.N., is not seen as "militaristic" and has undertaken important international peace-keeping roles.

The Canadian Context: Current and Future

Aside from the growth of terrorism worldwide, there are several reasons for Canadians and Canadian policy-makers to avoid becoming sanguine about Canada's relative immunity from the scourge of terrorism:

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* See, Jackson R.J., M.J. Kelly and T.H. Mitchell (1977) "Collective Conflict, Violence and the Media in Canada", Ontario Royal Commission on Violence in the Communications Industry, Report, Volume 5 Learning from the Media, Toronto, Queen's Printer for Ontario; and Frank, J.A. and M.J. Kelly (1977), "Etude Préliminaire sur la violence collective en Ontario et au Québec, 1963-1973", Canadian Journal of Political Science, 10: p.p. 145-157.

Culture: Because of its open refugee and immigration policy, Canada's cultural mosaic is growing in size and diversity. The vast majority of refugees, landed immigrants, and naturalized Canadians leave behind the divisions and tribulations of their native land. A tiny minority do not and use Canada as a base to continue criminal and violent agitation against their native government. These tiny minorities are a source of international terrorism in Canada--an element of terrorism that has increased significantly in the past decade. The battle against international terrorism and the continuing commitment to a free, open and culturally-diverse society present Canadian policy-makers with a major challenge.

Geography: Although Canada is far away from the world's terrorist hot spots, Canada does share the world's longest undefended border with the United States. The United States is a focus of terrorist attack because of its role in international affairs. Canada could, therefore, be used as an entry point or haven for terrorists taking action against the U.S. and U.S. citizens. The Committee found documented evidence of only two known terrorists trying to use Canada as an entry point into the U.S. over the past decade. The Committee has reason to wonder, however, if this is due largely to Canadian or U.S. policies and actions. Further, although our geography does put considerable distance between our borders and those regions most troubled by terrorism, Canada is not truly isolated. Air travel makes Canada increasingly accessible from any point on the globe.

Foreign Policy and Alliances: It is far beyond the mandate of the Committee to review or comment on the government's foreign policies and international relations. The Committee notes, however, that the government's perceived public support for the U.S. government's air strike against Libya on April 14, 1986 and support for the British government's decision to sever diplomatic relations with Syria heighten Canada's visibility with governments inclined to support or initiate terrorist acts. Further, Canada is a member of several international organizations that are often targeted by terrorists including NATO, NORAD, the OECD and Summit Seven.

Technology: Canada, by virtue of its wealth, its geography and the ingenuity of its people, has an extended and sophisticated economic infrastructure. We have 10 international airports in Canada, two transcontinental railroad systems, an advanced telecommunications system relying on terrestrial lines, earth stations and satellites, nine nuclear power plants and a major inland seaway consisting of five man-made canals and 13 locks. This infrastructure is vulnerable and presents a target to terrorists wanting to make a political statement. Furthermore, our advanced communications system can broadcast a terrorist event in Canada around the world in a matter of minutes, giving the terrorist a world stage.

The "Action-Reaction Syndrome": Canadian authorities have recently successfully prosecuted a number of terrorists. For the first time in our history, therefore, we have several diverse types of international terrorists incarcerated in Canadian jails. When Ali Hamedei was arrested in January, 1987 by West German authorities, his incarceration and possible extradition to the U.S. for his part in the June 1985, TWA hijacking led to at least three hostage-takings in Beirut by his group (Islamic Jihad) and its associates. In 1982, an Armenian terrorist group (ASALA) attempted to bomb an Air Canada cargo terminal in Los Angeles in reaction to the arrest of alleged Armenian terrorists by police in Toronto. Armenian terrorists bombed Air Canada offices in Paris and Lyon, France in November, 1985 to publicize their demands to have their colleagues freed from Canadian jails.

Canadian "actions" against terrorists have prompted and could continue to prompt "reactions" by terrorist groups and bring Canada closer to the mainstream of international terrorism.

Hardened Targets: Governments worldwide are taking action to better protect their citizens, their diplomats, elected officials and military establishments from terrorism. Appearances aside, terrorists' choice of targets is rational. Terrorists tend to be risk averse. For example, after 1968, the Popular Front for the Liberation of Palestine (PFLP) concentrated exclusively on El Al aircraft. As Israel tightened security, the PFLP began to target other, "softer" airlines, including British, Swiss and U.S. carriers. As targets "harden" worldwide, terrorists' attention could well turn to places such as Canada, where there remain a number of vulnerable and attractive targets.

Canada is not unique in these attributes or vulnerabilities. There is, however, no reason to believe Canada is or will be immune from terrorism, particularly from international terrorism. In any event, one major terrorist incident can have an enormous and disproportionate impact on a democratically-elected government. The incident involving the U.S. Embassy in Iran in 1979-80 became a major preoccupation of the Carter Administration and contributed to its electoral defeat. The Italian government's handling of the **Achille Lauro** piracy contributed to that government's fall. The U.S. citizens held hostage in Beirut, by various factions, became a preoccupation of President Reagan and led to a major departure from established U.S. policy.

In the wider scheme of things, terrorism has done and can do relatively little damage. The casualties and damage resulting from terrorism pale in comparison to natural or man-made disasters such as war, earthquakes, chemical spills or accidents involving airlines, passenger ferries and ships. What terrorists try to do is make governments look weak by governments'

impotence or by their overreaction. In essence, "terrorism is a study in gearing, converting a relatively small input of force into a far more expansive output of eventual influence".*

The essential task of governments is to ensure that they are equipped to respond to terrorist attacks and to give an appropriate, measured response, rather than overreacting. With this objective in mind, the following Parts review and analyze the operation and effectiveness of the elements of the federal government's counter- and anti-terrorist arsenal.

* Ian Smart, "Behind the Headlines" in International Terrorism, Volume 44, No. 3 (February, 1987) p. 8.

Part I

THE LEGISLATIVE FRAMEWORK

Summary

The principal focus of many other governments has been on international agreements to combat terrorism. Canada has played and should continue to play an important role in the preparation of increasingly effective and comprehensive counter-terrorism treaties, agreements and conventions. Because of the particular nature of the terrorist threat to Canada, however, international agreements will have only a limited impact in addressing the Canadian problem. The thrust of Canada's attention should be towards domestic law, including federal statutes, regulations and federal-provincial-municipal agreements and arrangements.

In the Committee's view, a basic framework of effective federal law already exists. With some modifications, these laws can be adapted better to counter terrorism. The Committee is strongly opposed to the preparation of a separate stream of anti-terrorism legislation in Canada and hopes the government will resist any pressures or trends in that direction.

The Committee is concerned about the status of federal-provincial-municipal agreements, coordination and cooperation under Part IV of the Canadian Security Intelligence Service Act. Effective and expeditious cooperation among the three levels of government is vital in Canada's fight against terrorism. Federal-provincial agreements under subsection 61 (2) have been too slow in coming. An agreement with Quebec is still outstanding. Further, the Committee believes that federal authorities are over-confident in their perception of how effectively these agreements will work in practice when governing relations among the federal, provincial and municipal police forces during a terrorist incident.

BACKGROUND

The Committee reviewed the framework of bilateral and multilateral international treaties and agreements to which Canada is a party, federal statutes and regulations designed or available to counter terrorism and federal-provincial-municipal agreements and coordination. For purposes of this Part, the Committee has divided the review into three sections: International arrangements, the framework of federal law and Canadian intergovernmental arrangements and coordination.

International Arrangements and Cooperation

There are three fronts on which terrorism is countered by the international community. The first front is manned by police, security and intelligence agencies and is directed at identifying and neutralizing terrorist threats and incidents before they occur. The successes achieved on this front depend on effective cooperation and sharing of intelligence among police, security and intelligence agencies internationally.

The second front comes into play during an actual terrorist incident. The governments concerned and their agencies consult, to one degree or another, and the lead state--usually the state within which the incident has occurred--takes whatever action it deems necessary and appropriate to resolve the incident. The third front comes into play after a terrorist incident has occurred and involves the criminalization of a range of terrorist acts through international agreements, the levying of penalties and agreements to either prosecute terrorists or extradite them to a state where prosecution will occur.

[While the second front tends to operate on an ad hoc basis, the first and third fronts are the subject of a number of bilateral and multilateral agreements. Because the arrangements are ad hoc and vary with the specific circumstances and requirements, the "second front" cannot be described or analyzed.]

The First Front: The federal government, particularly the executive, has authority over Canada's relations with other countries. Under the **Canadian Security Intelligence Service Act**, Ministers must approve the dissemination of information by CSIS. The RCMP also acts on behalf of Canada in the area of international police cooperation. The RCMP's role is usually restricted to the exchange of criminal intelligence.

The Canadian government has entered into agreements with a total of 86 police and security-intelligence agencies in 52 countries for the sharing of information and intelligence through CSIS. CSIS has 24 "liaison officers" in Canadian missions abroad responsible for liaising with the national police

forces and security and intelligence agencies to facilitate the transfer of intelligence. The quality of the information received by CSIS through these agencies is obviously dependent on the quality of the intelligence-gathering and threat assessment capabilities of the agencies providing the information. Intelligence may also be coloured by the political orientation and objectives of the government to which the agency is responsible. Further, security and intelligence agencies are generally very jealous of the intelligence they obtain and are often reluctant to pass on the information unless there is a clear reciprocal benefit.

Canada is also cooperating with the Trevi Group, an informal group set up in 1976 that consists of Ministers of member countries of the European Economic Community responsible for police, security and intelligence matters. The Trevi Group is actively compiling information on known terrorist leaders and illicit arms dealers, developing mechanisms for the exchange of information respecting major thefts, robberies and incidents involving explosives and organizing a "hot line" on terrorist movements.

The Trevi Group first expressed interest in 1986 in having informal discussions with non-EEC member countries. In April, 1987 the Solicitor General of Canada had the first meeting with the leadership of the Trevi Group in Brussels for discussions on terrorism, immigration and drug trafficking. According to officials of the Department of the Solicitor General, involvement with the Trevi Group is mutually-advantageous. From Canada's perspective, it expands our intelligence contacts on a multilateral, as opposed to an exclusively bilateral, basis and provides Canada with more diversified sources of counter-terrorism intelligence.

The Third Front: In the international law context, Canada is a party to several international agreements dealing with various aspects of terrorism. In particular, Canada is a party to three international conventions relating to civil aviation formulated by ICAO.*

The first is the **Tokyo Convention** concluded in 1963. This Convention relates to offences committed on board an aircraft, such as a hijacking and essentially gives the state in which the aircraft is registered the power to exercise jurisdiction in the matter. The Convention also gives the captain of the aircraft certain powers over persons committing or suspected of being about to commit an offence and provides for the detention of such persons by contracting states. Signatories to the Convention also agree to restore control of the aircraft to captains who have lost control and to facilitate the onward

* The International Civil Aviation Organization is a specialized agency of the U.N., headquartered in Montreal, of which virtually all countries in the U.N. are members.

journey of passengers and the return of their property. The **Tokyo Convention** does not, however, create an obligation to extradite offenders, nor an obligation to prosecute them. It also specifically states that no signatory need take penal action resulting from offences of a "political nature or those based on racial or religious discrimination", except when the safety of the aircraft, passengers or property so requires.

The second convention, the **Hague Convention**, came into being in 1970 after a spate of hijackings for political purposes in the late 1960's. It requires contracting states to make it an offence "punishable by severe penalties" to take control of (i.e. hijack) an aircraft. Further, each state must assert jurisdiction over "any other act of violence against passengers or crew" when the aircraft is registered in that state, or lands there with the offender still on board.

The **Hague Convention** also deals with extradition. The unlawful seizure of an aircraft is included as an extraditable offence in states' extradition treaties with each other. In the absence of such treaties, a state may consider the **Hague Convention** as the legal basis for extradition. Analogous to the provisions of the **Tokyo Convention**, no state is obligated to extradite if it refuses to do so based on "the political nature of the offence". If a state refuses to extradite, however, it must prosecute in the same manner as an ordinary offence of a similar serious nature.

The latest ICAO agreement is the **Montreal Convention** of 1971, which is essentially an extension of the **Hague Convention**. Article 1 sets out a list of offences that are punishable by severe penalties by contracting states. They include:

- Acts of violence against persons on board aircraft in flight that are likely to endanger the craft's safety;
- The destruction of an aircraft "in service", or the damaging of an aircraft in such a way as to render it incapable of flight, or to endanger its safety;
- The placing of a substance on board an aircraft that is likely to destroy it or render it incapable of flight or otherwise to endanger its safety;
- The destruction of or interference with air navigation facilities to endanger the safety of an aircraft; and
- The communication of information known to be false that endangers the safety of an aircraft.

The **Montreal Convention** broke new ground by extending application to aircraft "in service" as well as in flight. "In service" is defined as including "preflight preparation" and a period of 24 hours after landing. The Convention also applies the "either prosecute or extradite" principle: If a country cannot or will not prosecute, it must extradite the terrorist for trial to a country having jurisdiction.

The **Bonn Declaration** was promulgated in 1978 by the Summit Seven; the group of industrialized Western nations, including Canada. It represents an attempt to bring pressure on countries who, pursuant to their international obligations, fail to take action against terrorists. Rather than being a treaty, it is a collective expression of political resolve. Its objective is to cause the termination of air services to and from a country that refuses to extradite or prosecute those who hijack aircraft. In effect, the Declaration represents an attempt to secure compliance with the civil aviation conventions. At the Summit Seven conference in Venice earlier this year, the member states agreed to "make the **1978 Bonn Declaration** more effective in dealing with all forms of terrorism affecting civil aviation". To this end, they agreed to cease flights to any state that refuses to extradite or prosecute those guilty of offences described in the **Montreal Convention**, or to any state that does not return the aircraft involved.

In 1973, the U.N. promulgated a Convention on the **Prosecution of Crimes Against Internationally Protected Persons, Including Diplomatic Agents**. In many respects it is similar to the civil aviation conventions. It sets out a list of offences directed at "internationally protected persons" (known as "IPP's") and the contracting states pledge to make such offences punishable by penalties that recognize their "grave nature". Article 3(1)(b) of the Convention gives jurisdiction to a state whose nationals have committed any of the offences enumerated, wherever those offences occur. As in the aviation treaties, there are also provisions about cooperation, the exchange of information, extradition and prosecution.

The 1979 **U.N. Convention Against the Taking of Hostages** operates in much the same manner as the civil aviation and protection of diplomatic personnel treaties. The contracting states undertake to criminalize and levy serious penalties for the seizure, detention or threatening of hostages in order to compel third parties (such as states, international organizations and individuals)

> ...to do or abstain from doing any act as an explicit or implicit condition for the release of the hostage...

As with other similar conventions, there are provisions as to jurisdiction, extradition, prosecution, cooperation and the exchange of information.

The members of the Atomic Energy Agency, of which Canada is a member, agreed to the **Convention on the Physical Protection of Nuclear Materials** (1979). It requires each signatory to take appropriate steps within the framework of its national law and consistent with international law to protect the transport of nuclear materials and to prohibit the export of nuclear materials unless the exporting country has received assurances that requisite protection is applied.

Major gaps exist in the coverage of the international conventions, declarations and agreements. Currently, no international instrument applies to terrorist acts that occur at airports and do not involve aircraft *per se* or hostages. The incidents at the Rome and Vienna airports on December 27, 1985, where 97 people were killed or wounded, demonstrate the need to focus attention in this area. Canada took an important initiative last September in this regard. The matter is currently before a sub-committee of ICAO and an agreement could be reached later this year. Further, the piracy of the Achille Lauro in 1985 and the murder of one of its passengers demonstrates the need for an effective international agreement to cover maritime terrorist incidents. Article 13 of the U.N. Resolution on Terrorism requests the International Maritime Organization (IMO) "to study the problem of terrorism aboard or against ships". The Italian government has taken more direct action by initiating an international instrument on maritime incidents through the IMO and agreement could be reached as early as this year. At the 26th General Assembly Meeting of ICAO in October 1986, Canada and Israel advanced proposals for the imposition of strict security measures against terrorists, prompted in part by the incident involving a Pan American jet at Kharachi, Pakistan. The motion was not adopted, but is scheduled for consideration at the next meeting of the Assembly in 1988.

Extradition: Extradition is a matter completely within federal authority. The judiciary determines whether a fugitive or a person found guilty of crimes in another state should be held and surrendered to that state, based on an extradition treaty or arrangement (if one in fact exists) and following the procedures laid down in the **Extradition Act**. The final decision on an extradition request is made by the Minister of Justice, although it is possible for a superior court to rule, under section 21 of the Act, that a person is not to be surrendered in respect of offences having a "political character", in the absence of treaty provisions excluding or limiting such an exception. This possibility has the potential to inhibit Canada's ability to extradite terrorists or alleged terrorists.

Canada has extradition treaties or arrangements with a total of 44 states. (See Figure 2). In addition, international conventions such as those referred to in this Part usually provide that offences referred to are deemed to be included within an existing extradition treaty between signatories; or that where no such

treaty exists, signatories may, at their option, consider the convention as a legal basis for extradition in respect of the offences. Finally, fugitive offenders legislation governs the surrender of fugitives between Canada and other nations that recognize the sovereignty of the British Crown on much the same basis as extradition legislation.

Figure 2

Countries with which Canada has an extradition treaty

Countries with which Canada has an extradition treaty or agreement in force and the year upon which each treaty came into force.

Albania	1928	Liberia	1894
Argentina	1894	Luxembourg	1882
Austria	1979	Mexico	1889
Belgium	1902	Monaco	1892
Bolivia	1899	Netherlands	1899
Chile	1899	Nicaragua	1907
Colombia	1890	Norway	1875
Cuba	1906	Panama	1908
Czechoslovakia	1928	Paraguay	1912
Denmark	1979	Peru	1908
Ecuador	1887	Portugal	1894
Finland	1985	Romania	1894
France	1879	Salvador	1883
Federal Republic of Germany	1979	San Marino	1900
Greece	1914	Spain	1879
Guatemala	1887	Sweden	1982
Haiti	1876	Switzerland	1882
Hungary	1875	Thailand	1912
Iceland	1875	Tonga	1975
India	1987	United States	1976
Israel	1970	Uruguay	1884
Italy	1985	Yugoslavia	1902

Canada has also devised a new approach to its extradition arrangements. New treaties will be revised to focus more clearly on terrorist crimes by specifically removing certain offences (such as those dealt with by the civil aviation conventions) from the scope of the political offence exception. The

extradition treaty entered into earlier this year with India is a case in point and will apparently be a model for subsequent extradition treaties entered into by Canada, in both its scope and in the incorporation of **Charter of Rights and Freedoms** guarantees of natural justice.

The Framework of Domestic Federal Law

For the most part in Canada, acts of terrorism are treated like any other form of criminality under the **Criminal Code**. As will be discussed later in this Part, special provisions have been made in the **Criminal Code** relating to specific terrorist acts, adding terrorist acts as aggravating factors in the offence to be charged and providing the Canadian courts with extraterritorial jurisdiction with respect to certain terrorist acts.

The federal government has exclusive jurisdiction over criminal law and has the authority to enforce all federal statutes with the exception of the **Criminal Code**, the enforcement of which has, by virtue of long usage and statute, been delegated to the provinces. However, under the **Security Offences Act** (Part IV of the **Canadian Security Intelligence Service Act**), the federal government can exclude the provinces from the prosecution of offences arising out of "threats to the security of Canada" or directed against "internationally protected persons", as defined in the **Canadian Security Intelligence Service Act** and the **Criminal Code**, respectively.

Over the past decade, the Canadian Parliament has passed several pieces of legislation addressing the threat of terrorism. Much of this legislation implements the provisions of the various international agreements referred to earlier in this Part:

In 1972, extensive amendments were made to the **Criminal Code** dealing with hijacking and other offences relating to aircraft.* The offences are punishable by a maximum term of life imprisonment. Persons who commit these offences are punishable by the Canadian courts if the offender is "found anywhere in Canada", regardless of whether the aircraft affected is registered in Canada, or whether the offence occurred in Canada.

In 1976, Canada amended the **Criminal Code** to reflect the **U.N. Convention on the Prevention of Crimes Against Internationally Protected Persons**. A new section was added** making it an indictable offence to make threats of violence against "internationally protected persons"

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* Sections 76.1, 76.2
** Section 381.1

or premises occupied by them. Another section* made attacks upon the "official premises, private accommodation or means of transport" of IPP's an indictable offence if the attack "is likely to endanger life or liberty". Persons alleged to have committed such acts may be pursued by Canadian authorities for trial in Canada if the offence was committed on a ship or aircraft registered in Canada, if the person is a Canadian citizen or is resident in Canada, or if the victim is a Canadian diplomat.

In 1981, Canada gave effect to the 1978 **Bonn Declaration** through passage of the **Prohibition of International Air Services Act**. It authorizes the Governor in Council to prohibit Canadian carriers from flying to a state and to forbid that state's carriers from flying into Canadian airspace when the state in question fails its obligations to prosecute or extradite terrorists as required by the Declaration.

In 1985, the **Criminal Code** was amended once again , this time to bring Canada into compliance with the **U.N. Convention on the Taking of Hostages**. Canadian courts were given jurisdiction over a hostage-taking not only in Canada, but also outside of Canada where the victim or the offender is a Canadian citizen. The same set of amendments** gave Canadian courts jurisdiction in relation to offences concerning nuclear materials where there is a direct connection with Canada, regardless of where the offence occurred.

Domestic Inter-Governmental Coordination and Cooperation

Federal country and federal, provincial and municipal authorities each have an important role to play in counter-terrorism and anti-terrorism. Prior to 1983, the provinces (by custom and statute) had exclusive jurisdiction over the prosecution of alleged terrorists. Terrorist acts were prosecuted under the **Criminal Code**, like any other form of criminality. In 1983, the Supreme Court of Canada held that the federal government has inherent jurisdiction to enforce all federal laws, including the **Criminal Code**. Thus, provincial authority over criminal prosecution subsists only by virtue of long-established usage and the statutory designation of "attorney general" as being provincial in the **Criminal Code**. Provincial authority can be displaced by federal legislation. This was done in a limited area, including terrorism, in 1984.

Part IV of the **Canadian Security Intelligence Service Act** allows the federal Attorney General to intervene in and take over the prosecution of

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* Section 387.1

** Section 6

criminal offences involving"threats to the security of Canada", or directed against "internationally protected persons". Thus, the federal government may, at its discretion, assume authority over the prosecution of terrorists. In the absence of federal intervention, the provincial attorneys general retain the authority, through provincial Crown prosecutors.

Both federal and provincial governments have the power to appoint and operate police forces. Ontario and Quebec, along with many municipalities, have done so. In the remaining provinces and municipalities the RCMP provides police services by virtue of contracts with the provinces. In such cases, the RCMP is operationally under the direction of the provincial attorney general, but remains under the managerial and disciplinary control of the federal Solicitor General.

With the coming into force of Part IV of the **Canadian Security Intelligence Service Act** in 1984, the federal Department of the Solicitor General began negotiations with its provincial counterparts to give effect to federal primacy in the resolution of "security offences" as defined by section 57(a) of that Act. These agreements, pursuant to section 61(2) of the Act, specify the responsibilities of the RCMP (having "primary responsibility") with those of the provincial and municipal police forces.

At the time of writing this Report, agreements had been entered into with the governments of British Columbia, Ontario, Nova Scotia and Prince Edward Island and were very close to finalization with Alberta and Saskatchewan. An agreement with Quebec apparently will take some time. Police working groups had been set up with some provinces to work out the details of the general agreements, leading towards "memoranda of understanding" with provincial and municipal police forces.

COMMITTEE OBSERVATIONS AND RECOMMENDATIONS

International Arrangements

Canada has taken a prominent and active role in initiating and implementing international agreements against terrorism. Canada has also taken action against states that have promoted terrorism or acted as a haven for terrorists. For example, Canada in concert with several other countries such as the U.K., has reduced the level of diplomatic ties with Libya, has agreed to stop shipping sophisticated oilfield equipment and discouraged Canadian business activity there.

There is no question that international agreements designed to counter terrorism are important and, as an important member of

the international community, Canada should continue to push for increasingly broad and effective arrangements against terrorism. Canada has several advantages which enhance its impact and credibility in this regard: Canada does not have an imperial past or a colonial present. It does not engage in state-sponsored terrorism and its motives in countering terrorism worldwide are not suspect. Certain other governments do not have the same degree of credibility because they are seen by a very wide international public as following a double standard with respect to terrorism. **International agreements are only one weapon, however, and certainly are not the strongest or most effective weapon in Canada's fight against terrorism.**

International arrangements have several inherent weaknesses. First, in the international context, there is no agreement on what constitutes "terrorism". Many countries, especially the non-aligned and developing nations, tend to interpret moves against terrorism by Western nations as having the potential or objective of suppressing "liberation movements" of various types. Further, non-aligned and developing states often wish to identify and get at what they see as being the "root causes" of terrorism: "racism", "Zionism", "colonialism", "imperialism" and the like. For example, the 1985 "Resolution of the General Assembly of the United Nations on Terrorism" includes a provision reaffirming

> . . . the inalienable right to self-determination and independence of all people under colonial and racist regimes and other forms of alien domination, and upholding the legitimacy of their struggle, in particular the struggle of national liberation movements . . .

In general, Canada and other developed nations of the West tend to focus on agreements that reduce the risk of loss of innocent life through terrorism, regardless of the cause, grievance or motivation. This difference in approach results in protracted delays in the negotiation of agreements. It also results in agreements whose effectiveness is considerably less than the Western nations want.

Second, different political motivations among the members of many international organizations erode effectiveness, both of the organizations and the agreements they enter into to counter terrorism. Even the "Summit Seven"--composed exclusively of developed, "allied", Western nations--has been less than effective in securing compliance with the **1978 Bonn Declaration** because of internal political differences. Only one country--Afghanistan--has been deprived of air service under the **Bonn Declaration**, inspite of compelling evidence of other countries' flagrant disregard for its provisions. The U.S.' attempts to "revitalize" the **Bonn Declaration** have been "less than rewarding"

> . . . the political climate (within the Summit Seven) has not permitted the sort of multilateral cooperation we (the U.S.) believe is essential.*

Third, as set out in the Introduction, Canadians, Canadian establishments and Canadian interests as such are not materially at risk abroad through terrorism. To the extent that the solutions to the Canadian terrorist problem are international, they are more through the international sharing of intelligence (the first line of defence) and through bilateral relations with states. Otherwise, the solutions to the Canadian problem tend to be more within our domestic competence.

Finally, although they are being progressively closed, major gaps exist in the coverage of international counter-terrorism agreements. Perhaps the major gap is the lack of an enforcement capability and the recalcitrance of a number of states to abide by the spirit and letter of the agreements with apparent impunity.

Extradition Treaties

The Committee strongly supports the Canadian government's bilateral initiatives to enhance the effectiveness of extradition treaties to counter terrorism, by narrowing or more clearly defining the "political offence" exception.

The Committee heard testimony from several witnesses strongly critical of Canada's actions in this regard. In particular, representatives of the Sikh communities expressed grave concerns about the new extradition treaty signed by Canada and India. They are concerned that the Indian government will use the treaty to fabricate or devise frivolous charges in order to harass and intimidate expatriate Sikhs. The Sikhs feel the treaty is entirely one-sided (i.e. in the favour of the Indian government) and designed expressly by the Indian government to get at Sikh communities abroad.

While understanding the concerns of the Sikh community, the Committee does not agree that Sikhs are unduly exposed to risk by the treaty. The Committee notes that the new extradition treaty replaces the temporary arrangement made with India in 1985 under Part II of the **Extradition Act**. Further, to date the Canadian government has initiated two extradition requests under the new treaty; the Indian government has initiated none. Finally, the extradition treaty builds in all the protections of the **Canadian Charter of Rights and Freedoms**. The Court proceedings in Canada--which are

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* Parker W. Borg, Deputy, Office of the U.S. Ambassador at Large for Counter-Terrorism, in a statement to the U.S. House of Representatives Subcommittees on Arms Control, International Security and Science and International Operations, February 19, 1986.

analogous to a preliminary hearing of the charges--are sufficient, in the Committee's view, to weed out fabricated or capricious charges.*

The narrowing of the political exemptions in the Canada-India Treaty follows a trend (known as "making exemptions to the exemption") in a number of other international agreements to which Canada is not a party, including the **Organization of American States' Convention to Prevent and Punish Acts of Terrorism**, the **European Convention on the Suppression of Terrorism** and the **League of Arab States Extradition Convention**. As another example, in 1984 Interpol announced exemptions to Article 3 of the **Interpol Constitution** on offences of a "racial, political or religious character". By virtue of the 1984 exemptions, Interpol now exchanges information concerning "violent crime commonly referred to as terrorism", including attacks on human life and physical integrity, kidnapping, hostage-taking, unlawful interference with civil aviation, serious attacks on public and private property, violent crime with political motives in countries not directly involved and so on.

Domestic Arrangements

Special Legislation, Special Sanctions

Many countries have enacted legislation with special sanctions and prosecutorial procedures designed specifically to counter terrorism. Italy has

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* Under the treaty and the **Extradition Act**, a person apprehended as a result of an application for extradition appears before a judge in a Canadian court pursuant to section 18 of the Act. The requesting state, in this case India, must produce evidence

> "...as would, according to the law of Canada...justify committal to trial if the crime had been committed in Canada."

In the case of a convicted person, the requesting state must produce evidence

> "...as would, according to the law of Canada prove that he was so convicted."

The evidentiary burden (similar to that facing the Crown at a preliminary hearing on a criminal charge) is placed on the requesting state to establish such evidence as to the commission of an offence as would justify a trial. Further, the requesting state is subject to the rules of evidence in force in Canada, with the exception that the alleged fugitive may not be in a position to cross-examine the authors of affidavits or depositions--forms of evidence rendered admissible under the Treaty in extradition proceedings.

Furthermore, Canada can refuse to extradite anyone under the Treaty if

> "...it appears...that the request was not made in good faith or in the interests of justice or was made for political reasons or that it would otherwise be unjust having regard to all of the circumstances, including the trivial nature of the offence."

enacted special anti-terrorism laws that provide expanded arrest powers, longer prison terms, greater powers of pre-trial detention, the authority to undertake blanket searches and so on. Other countries, such as the United States, the U.K., France, West Germany and India have enacted similar legislation.

A number of witnesses appearing before the Committee urged the government to enact special anti-terrorism legislation to levy particularly heavy sanctions, authorize expanded search and seizure powers and devise special prosecutorial and evidentiary rules and procedures. Several witnesses suggested that the legislation being prepared to amend the **War Measures Act** should include special anti-terrorism provisions.

The Committee rejects the notion of a separate stream of anti-terrorism legislation, through the War Measures Act or otherwise, for two essential reasons: First, the terrorist threat to Canada and Canadians is not of the magnitude or nature that requires a separate body of law or the intrusion into civil liberties that might be included in such legislation. Canada simply does not suffer from, nor is likely soon to suffer from, a terrorist threat such as that confronting Britain, the U.S., Italy, India, France or West Germany. Second, as a basic principle, the Committee objects to any implicit or explicit recognition of terrorism being different from any other type of crime for legal purposes. **In this regard, the Committee feels that the Security Offences Act, by identifying "politically motivated crime" and by providing for somewhat different legal and institutional treatment of such offenders, may constitute an unwarranted step in this direction.**

Prosecutors and law enforcement agencies in other countries assert that Canada's treatment of terrorism as criminality has been a source of strength in our fight against terrorism. **The Committee believes that "political crime" or "terrorism" should not be given separate legal status in Canada.** In this regard the Law Reform Commission has proposed that the Criminal Code be amended to class as "first-degree murder", murder committed for "terrorist or political motives". **The Committee does not support this recommendation.** Its effect would be to distinguish terrorism from other forms of criminality. Furthermore, the courts already have the necessary discretion and have, in several recent instances, used that discretion to punish terrorists in the upper ranges of severity currently allowed by the law.

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* Part II, "Crimes Against the Person", Article 40(2)(d) of Draft Criminal Code, Law Reform Commission of Canada, Report 30, Recodifying Criminal Law, Volume 1, p. 108.

The Committee feels, however, that successive Canadian governments' extensions to the extra-territorial jurisdiction of Canadian courts to bring terrorists more effectively under the jurisdiction of Canadian law and courts is a natural and positive response to the threat of terrorism.

The Canadian Security Intelligence Service Act

Some witnesses before the Committee expressed concern that the **Canadian Security Intelligence Service Act** represents a governmental over-reaction to the problems CSIS was designed to counter and that the Act could be used by CSIS to intrude upon ("by investigation or otherwise") innocent, lawful behaviour. These witnesses were concerned that the **Act** has taken a long, and likely unnecessary, step from the requirement that "probable cause" be shown that a crime is about to be committed, is being committed or has been committed before investigation is undertaken. Further, they contend that ample investigatory powers already exist in the **Criminal Code** and that the **Canadian Security Intelligence Service Act** provisions are excessive. The principal point of concern appears to be the way in which the Act defines "threats to the security of Canada", in particular subsection 2(d) relating to

> activities . . . directed toward or intended ultimately to lead to the destruction or overthrow by violence of the constitutionally established system of government in Canada.

Critics point to the vagueness of this section and suggest that it requires security officials to interpret or extrapolate events or actions into the indefinite and uncertain future, in order to define whether a "security threat" exists.

The Committee notes that this concern is a natural and predictable result of establishing a security agency whose primary purpose is to gather intelligence as a preventive measure against the commission of offences, rather than gathering intelligence for evidentiary purposes concerning a crime that has been committed. The Canadian Security Intelligence Service Act is scheduled for review in 1989 (the fifth anniversary of its passage). This review will provide a more effective forum for an analysis of the need for some of the powers set out in the Canadian Security Intelligence Service Act based on a longer track record.

RCMP SERT (Special Emergency Response Team) Powers

It is not unthinkable that the Canadian government could, at some point, find itself in a position of having to mount an armed operation to rescue Canadians caught in a terrorist action outside of Canada, either in international waters or in the territory of another country. The Committee assumes that the government would likely intervene in an incident taking place in another country only as a last resort and after being invited to do so by the home government. Assuming the RCMP SERT remains Canada's principal anti-terrorist assault force, such an operation would probably be conducted by the RCMP, with logistical support provided by DND.*

The **Royal Canadian Mounted Police Act** clearly limits the police powers of the RCMP to Canada. Under the Act as now constituted, the RCMP would have no police powers and no special status outside of Canada. When operating in another country the RCMP would be subject to the laws of that country and would not likely be granted powers as police officers. Paragraph 18(d) of the Act authorizes the Governor in Council or the Commissioner of the RCMP to prescribe other duties for the force. According to government witnesses before the Committee, this authority could be used to specify extra-territorial functions for the RCMP SERT.

The Committee supports the concept that Canada should have an armed, assault force available to rescue Canadians in hostage-taking incidents outside of Canada. It is concerned that the government has not already made a policy decision on this matter and the circumstances and conditions under which such a force would be deployed. The government should avoid being confronted with a terrorist emergency abroad without having worked through how to respond.

If SERT is to remain the responsibility of the RCMP it must be positioned to quickly and effectively respond to an incident outside of Canada. The parameters within which such decisions would be made should be established now by the Cabinet and not left to the moment or to the discretionary powers of the Commissioner of the RCMP. Accordingly, the Governor in Council should issue a clear set of orders under the Royal Canadian Mounted Police Act to authorize the RCMP to operate outside of Canada and to prescribe the circumstances under which such an operation could take place.

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* See Part II for a discussion of the feasibility of retaining SERT within the RCMP.

The Publication and Distribution of "Mayhem Manuals"

Several countries have outlawed the publication, sale or distribution of what are known as "mayhem manuals". West Germany, for example, outlaws publications describing how to make bombs or weapons or how to carry out a terrorist attack.

The Committee was concerned at the availability in Canadian stores of a range of books, magazines or pamphlets on explosives and assault operations, such as "Soldiers of Fortune", "The Anarchist Cookbook", "The Freedom Fighter's Manual", "ADL Paramilitary Training", "The Weaponer", "Two Component High Explosive Mixtures", "Submachine Gun Designers' Handbook", "Total Resistance (The Swiss Army Guide to Guerilla Warfare and Underground Operations)", "The SS Werewolf Combat Instruction Manual", the "Turner Diaries", "Special Forces Operational Techniques", "Special Forces Foreign Weapons Handbook" and "Streetsweeper (A Home Workshop Shotgun)". Much of this material has been allowed into Canada since March, 1985. Prior to that date, it was not allowed into Canada on the grounds that it was "immoral and indecent" pursuant to Tariff Item 992001-1, section 14 of the **Customs Tariff Act** and section 422 of the **Criminal Code**. In March, 1985 the Federal Court of Appeal held in the **Luscher Case*** that the prohibition against pornographic materials, as currently drawn under the legislation, was invalid as it infringed the freedom of expression provisions in the **Canadian Charter of Rights and Freedoms.** The Court did not suggest that Parliament could not prohibit or regulate the import of such material, only that the prohibition in the current law was invalid.

In April, 1985 Parliament approved remedial legislation** to prohibit the importation of material:

- Of a treasonable or seditious nature;
- That is obscene under subsection 159(8) of the **Criminal Code**; or
- That is hate propaganda under subsection 281.3(8) of the **Criminal Code.**

The legislation perpetuating this amendment will remain in force until general legislation now before Parliament relating to obscenity and pornography is approved, perhaps as early as 1988.

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* Re Luscher and the Deputy Minister of Revenue, Customs and Excise (1985) 17 DLR (4th) 503 (Fed. C.A.)

** **An Act to Amend the Customs Tariff** (Assented to April 3, 1985).

The remedial legislation or the legislation currently before Parliament does not, however, address itself to the importation, sale or distribution in Canada of "mayhem manuals" of the type referred to above. Any legislative prohibitions, of course, would have to respect the **Luscher** standards of not being "vague, ambiguous, uncertain or subject to discretionary determination".

The Committee recommends that the government look at ways effectively to proscribe the importation, production, distribution or sale of manuals having as their dominant, primary characteristic the description of how to fabricate weapons or bombs, or the description of tactics that could be of practical assistance in mounting terrorist attacks.

Fundraising

It has come to the Committee's attention that substantial sums of money are annually raised in Canada that ultimately are used to purchase explosives and weapons, or otherwise are used to support terrorism in some form somewhere. Recommendations were made to the Committee that the government should prepare legislation to stop the raising of money in Canada in support of terrorism.

The Criminal Code deals only peripherally with fundraising for purposes that could be described as terrorist-related. The Committee, however, has concluded that it would not be practical to go further in devising legislation to prohibit fundraising for terrorist groups or purposes. Usually, funds are ostensibly raised exclusively for humanitarian or for other strictly legal and exemplary objectives. It is not until several stages removed from the actual fundraising that a portion of the money raised may find its way into the support of terrorists. This redirection of funds usually occurs outside of Canada and beyond the reach of Canadian courts and legislation.

InterGovernmental Arrangements and Cooperation: Crisis Management

Intergovernmental Agreements

A senior government official said before the Committee that intergovernmental (federal-provincial-municipal) coordination had proved to be the most difficult aspect, thus far, of crisis management and had resulted in some serious problems in responding to specific terrorist incidents.

The Committee has reviewed several of the federal-provincial agreements entered into pursuant to section 61(2) of the **Canadian Security Intelligence Service Act**. It is the Committee's view that these agreements amount essentially to a restatement of the Act (Section 57) and otherwise only require the respective police forces to "consult and cooperate" with each other in relation to a "security offence". What is needed--and the Committee understands this process is in train--is the conclusion of concise and detailed agreements between the RCMP and the provincial (Ontario and Quebec) and municipal police forces on the actual procedures to be followed in specific circumstances and how the forces are to conduct and coordinate their operations. **In this regard, the Committee hopes that the police forces will agree to an alert system analogous to ITAS* that will specify pre-agreed levels of alert; each level setting in motion consultations between the police forces and predetermined, appropriate responses.** The Committee sees federal (ie. RCMP) involvement being increasingly exercised as the severity of the incident increases or is expected to increase.

Police Cooperation

From testimony and by virtue of private consultations with representatives of provincial and local police forces, the Committee does not believe that giving practical effect at the police level agreements under subsection 61(2) of the **Canadian Security Intelligence Service Act** will be either easy or expeditious. In simple terms, some provincial and municipal police officers do not appear to be fully aware of the implications of Part IV, particularly the assertion of federal primacy. Furthermore, while recognizing that the RCMP SERT has certain special capabilities, many local police officers contend that their own peace officers and emergency response teams are generally better-placed to deal with such emergencies. It was a misunderstanding or disagreement of this nature that lead to a heated dispute between the Ottawa Police Force and the RCMP during the early stages of the Bahamian High Commission hostage- taking in 1986. Similar problems have occurred in coordinating the responses to other recent terrorist incidents. The Committee notes in this regard that local police forces having an airport within their geographic jurisdiction continue to enhance their capabilities to deal with terrorist incidents at airports. The Peel Regional Police, for example, have devised an anti-terrorist armoured vehicle and formed a tactical and rescue response team, the primary purpose of which is to respond to terrorist incidents.

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* "Interdepartmental Threat Alert System: operated for federal departments and agencies by the Department of the Solicitor General. See Part II

The position or arguments put forward by local police forces usually consist of the following elements:

- Almost invariably it will be the local police force that is first notified of a terrorist incident and is first on the scene;

- It may often be some time before it becomes clear whether the incident is "criminal" (and therefore within local jurisdiction), or a "security offence" (and therefore within RCMP jurisdiction). Until it is clear, the local police force will legitimately assert jurisdiction;

- It is difficult and sometimes dangerous to change leadership between police forces when containing and responding to a terrorist incident. One senior police officer said that changing leadership is certainly not "like changing lines in hockey. It is difficult and often disruptive. Personalities and egos get involved";

- Regardless of the law, the local community will hold the local police forces to account for the resolution of an incident, whether "criminal", or security-related;

- The RCMP SERT is relatively new, untried and inexperienced. Most larger municipalities have experienced, sophisticated emergency response teams well-equipped to handle most emergencies;

- The local police force, sometimes with an emergency response team, is immediately available. The RCMP SERT, for incidents outside of the immediate Ottawa area, may be hours away;

- The local police forces better understand their communities and, in a very practical sense, are more likely to have linguistic abilities that are often invaluable in the negotiation of a peaceful resolution to a dispute;

Accordingly, the Committee suspects there will be continuing resistance at the local police force level to the spirit of Part IV of the **Canadian Security Intelligence Service Act** and to the assertion of federal jurisdiction in specific security offences.

On the other hand, asserting federal jurisdiction over security offences has some logic. For example:

- The protection of some of the people likely to be involved in hostage-takings (internationally protected persons) or establishments (diplo-

matic missions) is the responsibility of the federal government by legislation, often based on international treaties or agreements;

- Police forces cannot in some of the smaller municipalities be expected to and do not have the capability to deal with more than minor security offences;

- The management or resolution of a security offence may often involve the exercise of federal authority as in, for example, terrorists' demands for the release of prisoners from a federal penitentiary;

- Federal primacy helps ensure consistency in the response to terrorist incidents across Canada; and

- The federal SERTeam maintains that it has areas of expertise (aircraft assaults, explosives) that even the most sophisticated local forces are unlikely to have.

The Committee was concerned with testimony from different federal officials that suggests that the RCMP remains unclear as to how federal primacy will be exercised. The Committee is strongly of the view that such issues should be resolved in advance to avoid confusion and uncertainty when an incident arises.

The Committee does not recommend that the intent of Part IV be abandoned or reversed. The Committee agrees with the testimony of several witnesses, that the federal government should always have the right to assert federal responsibility over "security offences", in any of the following cases:

- When federal involvement or approval is required to resolve a specific incident, such as when it involves any of Canada's obligations through international treaties or agreements or federal property such as an airport; when consultations/negotiations are required with another country; when federal approval is required in, for example, permission for an aircraft to leave or land in Canadian territory; when international treaties or agreements relating to terrorism are brought into play; when "federally-regulated" carriers or operations are involved and so on;

- When the local police force does not have an emergency response team or the capability effectively to respond to a "security offence";

- When local authorities ask for assistance.

In such cases, there should be no doubt that the federal government has the right to assume total operational command and responsibility. Otherwise, the Committee feels that, by agreement, the local police forces should be left with responsibility. During the commission of a security offence, however, the agreements must require constant and close communication between the local police and federal authorities, regardless of who exercises command. Federal authorities should have the residual right to intervene and assume responsibility at any time, having regard for the difficulties inherent in changing leadership during an incident. It is with this philosophy in mind that the Committee recommends agreements between the RCMP and local police forces should be struck.

The Committee anticipates that the exercise of federal primacy must not result in a wholesale change of personnel at the site. Continuity must be maintained. What might change is the leadership and ultimate responsibility and accountability. In effect, the resolution would become a "joint" or "allied" operation with close cooperation and consultation between the forces involved, but with ultimate federal responsibility.

Joint Training and Cooperation

To facilitate joint operations, it is imperative that there be joint training exercises between the RCMP and the provincial and local police forces in at least some of the major municipalities. There should also be a sharing of procedures, recruitment standards and so on. This cooperation is essential to assist in the resolution of actual incidents by joint operation and to acquaint each police force with the capabilities and qualifications of the other.

The Committee is deeply concerned that to date SERT has not participated in joint training exercises with provincial or local police forces and that none are contemplated. The reason given to the Committee is that

> ...joint exercises and joint training...would be of limited utility as the SERT represents a qualitatively different response from local teams or from RCMP ERT's. Any such exercises could only be conducted on the understanding that, whatever role local teams or ERT's would play, the final assault would only be undertaken by SERT.

This inflexible attitude on behalf of the RCMP and federal authorities is not helpful. The Committee also understands that certain local police forces are not

disposed towards joint training with the RCMP SERT. The Committee finds the arguments against joint training illogical and destined to exacerbate difficulties between the federal government and local police forces in their response to specific terrorist events. The inference drawn is that neither force completely trusts the intentions or capabilities of the other.

The Committee was impressed with testimony on the importance of well-trained negotiators in the resolution of a terrorist incident. The larger police forces and municipalities are best positioned to provide the necessary linguistic skills. The RCMP also has its own negotiators in major centres across Canada. The Committee hopes that these functions are not duplicated and instead are structured to complement each other.

Coordination Between RCMP and CSIS and Crown Prosecutors

The Committee was aware of a number of press reports alleging inadequate cooperation between federal police and intelligence-gathering agencies on one hand and (provincial) Crown prosecutors on the other in the prosecution of alleged terrorists. In testimony before the Committee, Crown prosecutors involved in the prosecution of alleged terrorists reiterated the concern. The concern expressed is that lack of full cooperation may deprive the Crown prosecutors of the information or witnesses that they require in order to prosecute successfully alleged terrorists. If alleged terrorists go free as a consequence, the cause of anti-terrorism and counter-terrorism is being undermined.

The concern expressed is perhaps a manifestation of a lack of understanding of the role of CSIS. CSIS, unlike the former Security and Intelligence Division of the RCMP, is not oriented towards gathering evidence to support criminal prosecutions. CSIS' purpose is essentially intelligence and information gathering for risk assessment. The Committee also understands that CSIS may be reluctant to allow certain of its officers to appear as witnesses in trials of alleged terrorists in order to protect the witness, the integrity of CSIS operations and the safety of some of its contacts.

The Committee was made aware of at least one instance where provincial Crown prosecutors failed to obtain a judgment against alleged terrorists at least in part due to CSIS' decision not to allow its officers to testify or to disclose certain information. Section 57 of the **Canadian Security Intelligence Service Act** authorizes the federal Attorney General, by fiat, to assume prosecution of alleged security offenders. It seems logical to the Committee

that when CSIS information or witnesses are likely to materially effect the trial of alleged terrorists, responsibility for prosecution should be assumed by the federal government especially if CSIS witnesses or information might be withheld. This would allow the federal government to assume direct control, and hence responsibility and accountability, for the prosecution. **Otherwise, the Committee shares CSIS' position that, as a general rule, CSIS should cooperate fully with provinical Crown prosecutors in the prosecution of alleged terrorists, but not to the extent of prejudicing the safety of CSIS officers, their contacts or of important, ongoing investigations.**

Part II

THE FEDERAL GOVERNMENT'S COUNTER AND ANTI-TERRORISM ESTABLISHMENT

Summary

The way in which the federal government is organized in order to counter terrorism may have been the single most important issue addressed by the Committee. The structure has evolved since the FLQ Crisis in Quebec in 1970, but primarily since 1984. It is both large and complicated, requiring extensive coordination mechanisms and "lead ministries".

In evaluating the structure, the Committee asked itself a simple question: "Can this structure, as devised, be reasonably expected to work?" The Committee's general response is that it can't. There are many organizations involved, too much potential for overlap, duplication of effort and "turf battles"; the department responsible for coordinating the government's counter-terrorism policies and procedures is a "junior department" (the Department of the Solicitor General). In fairness, some of the arrangements and responsibilities are relatively new and untried. The Committee notes, however, that the government's response to two specific terrorist incidents (the Air India crash and the Turkish Embassy incident) to a considerable extent ignored the processes and the structures nominally in place.

In particular, the Committee feels that there are, from both a resources and coordination perspective, too many (at least six) "crisis management centres" within the federal government; that the government requires an enhanced, centralized threat analysis capability; that the dichotomy between External Affairs and Solicitor General for handling external vs. internal terrorist incidents should be abandoned; that the Special Emergency Response Team (SERT) now within the RCMP should be integrated with the military; and that the degree of political oversight and formality of the counter-terrorism structure and its operation should be enhanced.

Background

There are nearly 20 federal departments and agencies having some form and degree of a counter-terrorist or anti-terrorist role and mandate, of which eight or nine play central roles. The major departments and agencies and their respective roles are as follows:

Department of the Solicitor General: As a consequence of the review of the federal government's response to the October Crisis in Quebec, the Solicitor General of Canada was designated in 1976 as the lead Minister responsible for coordinating the response to "hostage-taking and related incidents". Subsequently, an internal government review was performed in the aftermath of an attempted and a successful assassination of Turkish diplomats in Ottawa in 1982. The principal recommendations resulting from this review were that the government should establish a national counter-terrorism program and that a centre be established within the government to bring together the diverse policy, planning and coordination activities and interests of federal departments and agencies to implement an integrated program. Accordingly, in July, 1984 the Department of the Solicitor General was confirmed by the Interdepartmental Committee on Security and Intelligence as the focal point for the coordination and planning of the federal government's counter-terrorism activities. This designation was implicitly reconfirmed by Prime Minister Mulroney's "mandate letter" to the new Solicitor General in October, 1984 and to subsequent Solicitors General. The fact that the Solicitor General is responsible for internal security, as well as being responsible for the RCMP and the Canadian Security Intelligence Service, were the major considerations in vesting this responsibility with his Department. In 1985, the **Department of the Solicitor General Act** was amended to vest responsibility for CSIS and the RCMP by statute with the Solicitor General.

The Committee understands that, in essence, the Department of the Solicitor General's mandate is to coordinate federal counter-terrorism activities. Within that framework, individual departments and agencies exercise a lead role with respect to the development of counter-terrorism policies, procedures and activities that fall within their respective mandates. With respect to crisis management, the mandate of the Department of the Solicitor General is to coordinate the crisis management of terrorist incidents occurring within Canada.

The counter-terrorist activities of the Department are focussed in the new Security Planning and Coordination Directorate. Also located within the Ministry is the Ministry Crisis Centre for responding to terrorist incidents within Canada. During an actual incident, the Crisis Centre will coordinate the activities of all federal departments and agencies involved, liaise with the relevant political authorities, collect, correlate and analyze information and

intelligence and handle public relations/public information activities relating to the incident. The actions of the Crisis Centre in any particular incident are under the direction of the Solicitor General and often the Deputy Prime Minister or the Prime Minister.

Department of External Affairs: The basic role of the Department of External Affairs is the development and implementation of the Canadian government's foreign policy. Flowing from this, the Department assumes the lead role within the overall counter-terrorism program for coordinating Canada's involvement with and contributions to bilateral* and multilateral** cooperation on counter-terrorist actions. External also assumes the lead role for the management of the government's response to specific terrorist incidents involving Canadians, Canadian diplomatic missions and Canadian interests abroad.

Within this broad mandate, External Affairs, in conjunction with the Ministry of Transport and the Canadian International Development Agency (CIDA), gives financial assistance to developing countries to provide, for example, enhanced airport security. Under the **Vienna Convention**, the Government of Canada is directly responsible for the safety of "internationally protected persons" such as diplomats, consular agents and diplomatic and consular establishments in Canada. This responsibility is carried out by the Department of External Affairs in conjunction with the RCMP. Accordingly, the Department works closely with the RCMP to provide physical security at diplomatic establishments in Canada. The Committee understands, however, that the Solicitor General assumes the lead role for handling a terrorist incident at a diplomatic establishment in Canada.

The RCMP

The central role of the RCMP is to conduct and coordinate the investigation of criminal offences, that may from time to time include terrorist acts. Under the **Security Offences Act** (which is Part IV of the **Canadian Security Intelligence Service Act**) the RCMP have "primary responsibility" to investigate offences and otherwise perform the duties assigned to peace officers in relation to offences arising out of "threats to the security of Canada", as defined in Section 2 of the **Canadian Security Intelligence Service Act**.

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* For example, External coordinates preparations for the annual Canada-U.S. consultations on terrorism involving the Ministry of the Solicitor General, CSIS, the RCMP, Transport, Canada Customs and Employment and Immigration.

** For example, the Economic Summit, the European Economic Community, the UN, ICAO and IMO. See Part I

In addition, under Part IV the RCMP have primary responsibility to investigate offences against "internationally protected persons" as defined by the Geneva and New York Conventions and by Section 2 of the **Criminal Code**.

In close consultation with the Department of External Affairs and in conjunction with other police forces, the RCMP provide special protective security operations for diplomatic missions in Canada and for internationally protected persons. On-site security at diplomatic missions in Canada, until recently, was provided by private security agencies. In response to several terrorist threats and incidents, however, RCMP special constables now provide on-site security, supported by vehicular patrols and other special support services, at all diplomatic missions located in Ottawa and are progressively replacing private security guards stationed at diplomatic missions in other centres across Canada. RCMP special constables, under contract to Transport Canada, also provide security services at 18 major Canadian airports, including all 10 international airports. These services encompass air and ground sight patrols, monitoring passenger screening checkpoints and responding to any incidents.

RCMP Liaison Officers are located in 18 Canadian Missions abroad, primarily for the purpose of liaising with the national police forces on criminal matters such as drug investigations. The RCMP also cooperates with police forces around the world under the auspices of Interpol. Through "Q" Directorate (The Criminal Intelligence Service) the RCMP gathers and analyzes criminal intelligence from various police sources that may be germane to counter-terrorism activities.

Since 1977, the RCMP have established "emergency response teams" in 31 centres across Canada, accounting for more than 300 officers. These teams have been trained and equipped largely to carry out assaults and to rescue hostages relating to criminal incidents. These emergency response teams do not constitute a national ERT, however. The structure of the teams, geography and logistics inhibit their being able to operate as an effective, national anti-terrorist emergency response team. By virtue of a Cabinet decision in January 22, 1986, however, the RCMP have been organizing and training a Special Emergency Response Team ("SERT") to respond to terrorist incidents in those cases where sophisticated, armed intervention is required beyond the expertise of local police forces. Transport, training, tactical and other support to SERT is provided by the Department of National Defence (DND). There are now 51 members being trained for SERT duties. These members can operate as one team, or as two independent teams.

For the Summit Seven meeting held in Canada in 1981, the government asked the RCMP to assume responsibility for protection of participants. The RCMP created a "hostage assault and rescue team" (known as HART) with training assistance from similar teams in other countries, including the British SAS. HART was disbanded after the Conference, but several of its members constitute the nucleus of the current SERT. The RCMP continues to provide security planning and protection for major state or government events involving high level representation domestically or from abroad and has also developed an effective bomb disposal capability.

Canadian Security Intelligence Service (CSIS)

CSIS came into being in July, 1984 upon proclamation of the **Canadian Security Intelligence Service Act**. CSIS replaced the RCMP Security Service in intelligence-gathering and analysis for purposes of national security. Its primary role is "to investigate, analyze and retain" information relating to "threats to the security of Canada", defined as "espionage", "sabotage", "foreign interference", "terrorism" and "subversion". Although CSIS' intelligence-gathering mandate is far wider than terrorism, it plays a vital role in Canada's counter-terrorist establishment and is the primary federal agency for the collection, analysis and dissemination of security intelligence on terrorist activity. CSIS obtains data and information from a number of federal departments and agencies, such as External Affairs, the RCMP and DND and from its counterparts in other countries. It analyzes and collates that information for retention or dissemination to appropriate authorities in Canada and abroad.

CSIS maintains "liaison officers" in 24 Canadian Missions abroad to liaise with the national police forces and security intelligence agencies. As a general rule, CSIS liaison officers and RCMP officers are not assigned to the same posts, to avoid duplication of effort.

The Security Intelligence Review Committee (SIRC)

To augment the internal review mechanism for CSIS within the Department of the Solicitor General (the Inspector General), the **Canadian Security Intelligence Service Act** established SIRC as an external review committee of CSIS' operations and activities. SIRC was set up on November 30, 1984. It consists of five Privy Councilors appointed by the Governor-in-Council (Cabinet), after consultation by the Prime Minister with the Leaders of the opposition parties in the House of Commons.

SIRC performs three roles of relevance to this Committee's mandate:

- It provides an external review mechanism for CSIS;
- It acts as a tribunal to consider complaints about activities carried on by CSIS and reports its findings to the Solicitor General; and
- Under the **Citizenship Act** and the **Immigration Act** it provides a mandatory review mechanism for refugee, landed immigrant and citizenship applications that raise issues or concerns of national security.*

Department of Transport (DOT) and Airport Security

Transport Canada assumes the lead role in planning and directing the development and implementation of policies, procedures and legislation pertaining to the security of the Canadian transportation system (air, marine and surface) within federal jurisdiction. The Department has devised a comprehensive Security and Emergency Planning Program, including the development of security policy, regulations and standards, the conduct of policing and security activities, security education and training, emergency planning and crisis management. This safety program is fully-developed for air transportation. Planning is underway for marine and surface transportation and rail security will follow. The focus of day-to-day responsibility within DOT is the Director General, Security and Emergency Planning.

Through External Affairs, Transport liaises with international organizations such as the International Civil Aviation Authority (ICAO), the International Air Transportation Association (IATA) and the International Maritime Organization (IMO).

Airport Security: The transportation mode most attractive to terrorist attack historically has been air transport. All major airports in Canada, including all international airports, are operated by Transport Canada. The airport general manager is a senior Transport Canada official and is responsible for airport security on-site. Security clearances for all personnel working on an airport site (for example cleaning and maintenance staff) are the responsibility of Transport Canada with the assistance of CSIS. The diagram at Figure 3 illustrates the number of authorities involved in airport security and their interrelationships.

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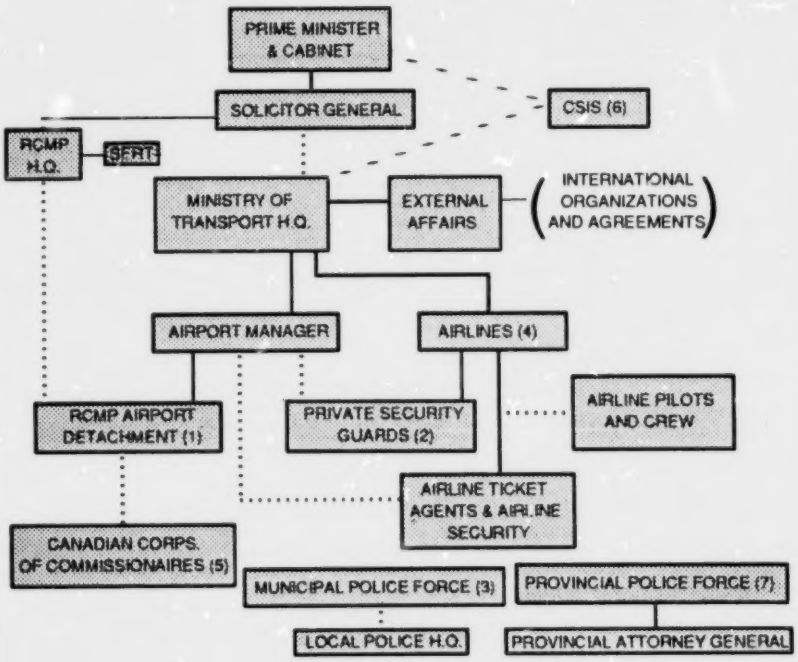
* See Part III "Immigration Policies and Procedures", for a more detailed explanation.

Figure 3

Responsibility Centres for Security at a Major Airport



1. Under contract to DOT

2. Under contract to airlines. Procedures specified by airlines subject to DOT approval and monitoring.

3. Have exclusive jurisdiction in criminal matters and will assist in security matters.

4. Operate under regulations and requirements specified by DOT, some of which are pursuant to international agreements.

5. By contract to RCMP.

6. In the normal course of events, intelligence will be provided to Solicitor General and interdepartmental/Cabinet committee system. In matters of urgency intelligence provided direct to DOT.

7. In "contract provinces" will be the RCMP, but still reporting to the provincial attorney general.

When an emergency occurs at an airport an "emergency coordinating committee", chaired by the airport general manager, begins operation. It consists of representatives of Transport Canada, the airport detachment of the RCMP, the local police force(s)* and the air carrier servicing agent. At headquarters in Ottawa there is a 24-hour situation and operations centre which monitors air traffic in and around Canada, changes in flight plans, flying in restricted areas and so on. A terrorist incident involving aircraft in flight in or around Canada would likely first come to the attention of this operations centre.

Department of National Defence (DND)

DND's role with respect to counter-terrorism and anti-terrorism consists of the following principal elements:

- Open information-collection and threat analysis through military attachés in Canadian missions abroad, through Canadian military establishments abroad and contact with the military establishments of other countries;
- Intelligence-gathering and threat analysis from the Communications Security Establishment.**
- Standing by to respond to requests for resources and support from the Department of the Solicitor General to resolve specific terrorist incidents.***
- Providing transportation, training, tactical and other support and assistance to the RCMP SERTeam.

Canada Employment and Immigration Commission (CEIC)

CEIC administers the **Immigration Act** and Regulations, pursuant to which it tries to ensure that no terrorist or individuals with terrorist associations

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* More than one local police force might be involved. For example, at Windsor and Hamilton, Ontario part of the airport runways fall within Ontario Provincial Police geographic jurisdiction, while the rest of the airport is with the jurisdiction of the municipal police forces.

** CSE provides signals intelligence in support of Canada's foreign and defence policy.

*** For example, a DND armoured vehicle and military personnel were on site during the Turkish Embassy incident in March, 1985 and assisted the RCMP in locating and disarming explosives left at the site.

or sympathies are admitted into Canada and to ensure the expeditious removal from Canada of non-Canadians found guilty of a terrorist act after due judicial process.

CEIC also liaises with Revenue Canada (Customs and Excise) in the latter's management of the Primary Inspection Line (PIP).*

Revenue Canada (Customs & Excise)

Since 1963, Revenue Canada has been assigned responsibility for operation of the Primary Inspection Line ("PIL"). Canada Customs officials are to ensure that persons trying to enter Canada at border points are not known or suspected terrorists, or do not fall within the "profile criteria" of a known terrorist. Customs officials are also responsible for guarding against the smuggling of weapons and explosives into Canada. In performing this role, Customs officials rely primarily on information and intelligence provided by CSIS, the RCMP, External Affairs, the International Customs Union and local police forces.

Privy Council Office (PCO)

The PCO provides the secretariat for the Cabinet Committee on Security and Intelligence (CCSI) and a senior official of the PCO chairs or serves on a number of the inter-departmental coordinating committees.

The PCO also supports the Prime Minister in the exercise of his general responsibility for national security and may review and comment on the operational effectiveness of the government's departments, agencies and systems in the aftermath of a specific terrorist incident.**

Atomic Energy Control Board (AECB)

Canada has a total of nine nuclear power installations, any one of which could provide an attractive target to a terrorist wishing to make a dramatic threat or statement. The AECB is the federal regulatory body for the nuclear fuel cycle. As part of that role, it regulates and monitors compliance with security

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* For example, the PCO undertook an evaluation of the government's response to the FLQ crisis and analyzed the implications for security procedures in the aftermath of the crash of Air India Flight 183. The management of the FLQ Crisis was coordinated by the PMO/PCO.

** See Part III "Immigration Policies and Procedures" for a more detailed review of the role of Employment and Immigration, Canada Customs, etc.

arrangements and procedures in nuclear installations and provides a sub-committee to the Special Threat Assessment Group (STAG) focussing exclusively on threats or incidents relating to nuclear installations and materials.* The AECB liaises with the international community of nuclear regulators and operators, gathers intelligence and, if necessary, issues security alerts to operators of Canadian nuclear establishments.

Department of Justice

Provides legal counsel to departments, agencies and the Government of Canada relating to legislation and regulations in place or required to counter terrorism and assists with the legal wording of international treaties, agreements and conventions. Further, under Part IV of the **Canadian Security Intelligence Service Act,** the Department of Justice advises and assists the Attorney General in the prosecution of "security offences", including terrorist acts as defined by that Act.

Canadian Corps of Commissionnaires

The Corps, under contract with departments and agencies and in cooperation with the RCMP, provides physical security and access control to the Parliament Buildings, government buildings such as Government House, federal government departments and agencies, airports and so on.**

Coordination Mechanisms

To make the departments and agencies described above work together as productively as possible, the government has put in place coordination mechanisms. As indicated above, the Department of the Solicitor General has assumed the lead role in policy, planning and coordination of the federal government's counter-terrorism program and for crisis management for terrorist incidents occurring in Canada. The Department of External Affairs has

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* See page 57.

** The Canadian Corps of Commissionnaires is a not-for-profit organization comprised of retired officers of the RCMP and the Canadian military. By virtue of a standing offer with the Department of Supply and Services, the services of the Corps are made available to all federal departments and agencies to provide physical security in support of the RCMP. The RCMP is now in the process of upgrading security in some federal departments and agencies on a case-by-case basis. This will result in supplanting or augmenting the security provided by the Corps. In essence, the Corps controls access to government buildings and restricted areas, checks passes etc. and otherwise acts as the "eyes and ears" and the first line of defence for the RCMP in providing physical security.

assumed the lead role for crisis management for terrorist acts occurring outside of Canada. The Privy Council Office, through the Intelligence and Security Coordinator and the Security and Intelligence Secretariat, also performs a coordinating, monitoring and evaluation role.

In addition, there is an interdepartmental committee structure for coordinating the activities and initiatives of the various departments and agencies as illustrated at Figure 4. This structure relates to security and intelligence matters generally and does not focus exclusively, or even principally, on terrorism.

The **Cabinet Committee on Security and Intelligence** (chaired by the Prime Minister) meets infrequently--roughly 3 to 4 times each year--to review and approve policies, plans or programs and resource allocations relating generally to security and intelligence matters. Counter-terrorism has recently assumed progressively greater prominence in the Committee's deliberations, but is still only one element of the Committee's mandate.

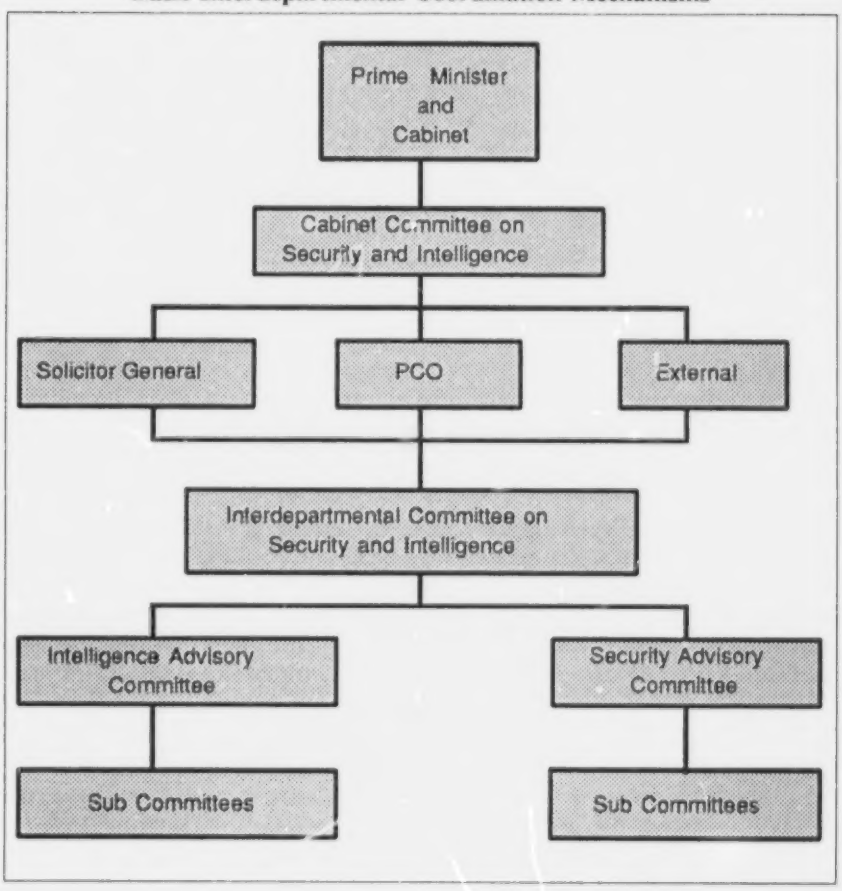
The **Interdepartmental Committee on Security and Intelligence** is comprised of senior public servants (deputy ministers) representing departments having a major role in the counter-terrorism establishment. Its chairman is the Secretary to the Cabinet, Clerk of the Privy Council. In practice, however, it is often chaired by the Intelligence and Security Coordinator, a senior officer of the PCO. The Committee reviews proposals and recommendations being made to the Cabinet Committee on Security and Intelligence and exercises general oversight of the federal counter- terrorism establishment.

The **Intelligence Advisory Committee (IAC)** is comprised of senior public servants at the assistant deputy minister level. It is chaired by the Intelligence and Security Coordinator (PCO). It pools and reviews intelligence and threat analyses from a range of sources within the government and ensures that intelligence and information is disseminated to appropriate authorities. IAC has no intelligence-gathering or threat assessment capability of its own. Instead, it relies on "working groups", sub-committees and the resources of individual departments and agencies such as CSIS, External Affairs and DND.

The **Security Advisory Committee (SAC)**, like the IAC, consists of senior public servants at the Assistant Deputy Minister level. It is chaired by the Assistant Deputy Solicitor General. The Committee has been in existence for some time, but has recently been strengthened in its counter- terrorism role and responsibilities. It reviews the program activities of various departments and agencies relating to counter-terrorism and anti-terrorism. Supporting SAC are a number of sub-committees, one of which is called the "Threat Analysis Coordinating Committee". It is chaired by a senior official of CSIS and

Figure 4

Basic Interdepartmental Coordination Mechanisms



coordinates the production of interdepartmental assessments and reports on terrorist trends to assist in identifying long-term counter-terrorism planning requirements. The Committee understands that plans are being formulated to establish another sub-committee of SAC chaired by the Director General, Security Planning Coordination, Department of the Solicitor General, to focus exclusively on terrorism and the Government's program response to it.

CSIS and the RCMP: Since the intelligence-gathering and analysis relating to national security was moved to CSIS from the RCMP, there have been indications of a lack of cooperation between the two agencies. Some of the problems are structural--for example the RCMP's refusal or inability to give CSIS direct access to the Canadian Police Information Centre (CPIC) data banks. Other problems are issue specific--inadequate cooperation between CSIS and the RCMP to avert a specific terrorist incident. Recently, CSIS and the RCMP have established a senior level liaison committee and have each appointed "liaison officers", whereby a senior RCMP officer works in CSIS representing the RCMP and a senior CSIS official works in the RCMP representing CSIS, in order to enhance cooperation and communication. CSIS and the RCMP also cooperate with respect to specific operations and may from time to time, conduct joint operations.

The **Interdepartmental Terrorist Alert System (ITAS)**: An interdepartmental terrorist alert system has been developed as an important device for coordinating the activation of the federal crisis management apparatus in response to apprehended or actual terrorist incidents. Based on available intelligence and information on a particular threat or incident, the Solicitor General will declare a threat at the appropriate level, thereby automatically triggering pre-arranged, appropriate responses by relevant organizations across the Government of Canada.

Special Threat Assessment Group (STAG): Created in 1976, STAG is an interdepartmental committee of public servants, chaired by an official of the Department of Health and Welfare and comprised of medical professionals and scientists with special qualifications to assess, prevent, contain or otherwise assist in the response to terrorist threats and incidents involving the use of nuclear, biological or chemical agents. It provides a scientific or medical assessment of a threat's credibility, feasibility, magnitude and potential or likely consequences and helps to identify the medical and physical resources required to cope with the situation. In doing so, it acts in support of intelligence-gathering agencies, the RCMP, provincial or municipal police forces.

COMMITTEE OBSERVATIONS AND RECOMMENDATIONS

One government official appearing before the Committee characterized the government's counter-terrorism an anti-terrorism structure as a "brick wall": Each brick represents a different department or agency of the federal government having its own tasks and perspective. In the Committee's view, all the "bricks" are there. When taken individually each department or agency

appears to have clearly-identified roles, responsibilities. When taken as a whole, however, the Committee is not convinced that the structure can operate effectively and efficiently, particularly in response to crises. There appears to be considerable potential for counter-productive and inefficient effort, duplications, overlaps, inconsistencies and "turf battles".

The Committee was impressed with the organizational charts and explanations provided by officials on the structure and how it is supposed to work. The Committee is aware, however, that in two recent terrorist incidents (the Air India crash and the Turkish Embassy incident), the structure and process that was set out on paper was largely ignored or short-circuited. The Committee, therefore, is forced to one of two conclusions: Either the structure cannot respond effectively; or Ministers have arbitrarily ignored the structure when faced with a crisis.

The Committee sees several defects in the current structure.

The Separation of "Emergency Preparedness"* and Terrorist Crisis Management

There is within the Government of Canada an organization known as Emergency Preparedness Canada. It stems from a civil defence organization created in 1948, which eventually evolved into the National Emergency Planning Establishment with responsibility for peacetime and wartime civil emergency planning. Through the years, functional responsibilities for emergency planning for peace and war were decentralized to departments and Emergency Planning Canada (EPC) became responsible for coordinating the emergency planning of federal departments, agencies and Crown corporations and effecting provincial liaison.

EPC reports to Parliament through the Associate Minister of Defence and receives administrative support from DND. It coordinates the planning of the federal government's preparations to respond to major disasters whether natural, manmade or resulting from war or insurrection, encourages emergency preparedness across Canada through its Joint Emergency Preparedness Program with the provinces and works closely with Canada's NATO allies in the area of civil emergency planning. EPC has no specific mandate to counter

* Prior to July 1, 1986 known as "Emergency Planning Canada".

terrorism except through its Vital Points Program* which identifies key installations across Canada crucial to the functioning of the nation, province or territory and recommends suitable security arrangements to protect them. EPC operates a Situation/Operations Centre which can be placed at the disposal of any department.

The Committee recognizes that the response to a terrorist incident will vary in material respects from the response to disaster, war or insurrection. Even at that, the Committee fails to appreciate the logic behind such a clear separation between the two functions and the commitment of resources to two functions which are, in essence, very similar. **Accordingly, the Committee recommends the amalgamation of the federal government's coordination and response mechanisms for terrorist incidents and disasters, war and insurrection.**

"Crisis Management Centres"

The Committee was struck by the number of "situation centres", "operation rooms" or "crisis management centres" that would come into operation to respond to a terrorist incident in Canada. For example, an incident involving an aircraft could involve or bring into operation crisis centers in DND, at the relevant airport, in the Department of Transport in Ottawa, in the Department of the Solicitor General and perhaps in External Affairs. The Committee is concerned that several of these crisis management centres are redundant and could easily be counter-productive in the quick and effective resolution of a terrorist incident. The number and layers of crisis management centres could also obscure accountability and responsibility and confuse and delay communications.

The Committee recommends that there be one central, crisis management centre for the federal government, staffed and in operation on a continuous basis. This centre would be occupied by officials of the appropriate departments in response to a specific incident requiring extensive intra-government coordination. The Committee recommends that this crisis management centre be located in the Privy Council Office.

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* The Advisory Committee on Vital Points, chaired by Emergency Preparedness Canada, manages the Vital Points Ledger. Vital points fall into two categories: Category I--critical to the entire nation, confined to federal vital points, protection for which the RCMP, through the Solicitor General of Canada, is responsible in the crisis. Category II--may be either federal or provincial and be a resource of facility whose disruption would adversely affect the security and efficient functioning of the nation, province or territory. Security inspections of vital points are undertaken by the RCMP or the provincial police and a report is generated containing a critical analysis of the site and its protection, along with advice to management on present security conditions and further measures needed to ensure its security in time of crisis. Follow-up inspections are carried out every three years.

Intelligence-Gathering and Threat Analysis

Effective intelligence-gathering, threat analysis and dissemination is the first line of defence against terrorism. The extent, nature and quality of information/intelligence-gathering and analysis is, therefore, central to an assessment of the adequacy of the government's counter-terrorism and anti-terrorism efforts. The Committee has no basis on which to do an independent evaluation of the threat analysis or intelligence-gathering capabilities of the Government of Canada with respect to terrorism. The Committee heard from several objective witnesses, however, who expressed very positive views about Canada's intelligence-gathering and threat analysis ability in general. The Committee, however, also heard expressions of concern from several witnesses, that the transfer of security intelligence-gathering from the RCMP to CSIS in 1984 had resulted in an erosion of Canada's intelligence-gathering capability from foreign sources. The concern was that it would take time for CSIS officers to establish links and relationships of confidence with their opposite numbers in other countries.

Although there may well have been temporary adjustment problems when CSIS was established, the Committee heard no evidence that problems persist or that CSIS's intelligence-gathering system is less effective than the system previously in place. In any event, it is probably too soon to judge. Any problems that have beset CSIS were predictable. It will probably be another three to five years before CSIS can reasonably be expected to realize its full potential.

The Committee did note, however, that CSIS has no covert intelligence gathering capability to collect intelligence abroad on a clandestine basis. This could well erode CSIS' currency with the foreign intelligence gathering agencies with which it relates and with whom it must share intelligence. The issue of Canada having a foreign secret service is far beyond the Committee's mandate. The Committee is of the view, however, that from an organizational point-of-view, grafting a clandestine foreign intelligence branch on CSIS, at this time, could easily impair CSIS in the pursuit of its current mandate.

What did become of concern to the Committee is the degree to which intelligence is shared within the federal government. There are a number of federal departments and agencies routinely involved in intelligence- gathering, analysis, threat assessment and dissemination, including CSIS, the RCMP, External Affairs, DND, AECB and CEIC, each within its own mandate and perspective. A Canadian Mission abroad may have, for example, up to four separate centres of information and intelligence-gathering: the External Affairs officers who, in the normal course of their work, assess political and government issues and trends and their implications for Canada's foreign policy; a CSIS liaison officer who, through liaison with the home

government's intelligence-gathering agencies, gathers intelligence relating to Canada's security in defence and foreign policy areas and with respect to counter-terrorism; an RCMP officer who will liaise with local police authorities and obtain intelligence on police and criminal matters; a military attaché who liaises with the home government's military establishments and will obtain information on military and defence matters on a cooperative basis.

The Committee heard testimony that all intelligence gathered at a Canadian post would be consolidated by the Head of Post and passed on to External Affairs. Urgent matters, of course, would be communicated direct to CSIS, DND or the RCMP. On the other hand, the Committee heard from Heads of Post that intelligence consolidation is at the discretion of the Head of Post and may not happen at the Mission.

The Intelligence Advisory Committee is the closest Canada comes to having a single focus for the gathering, analysis, discussion and dissemination of defence and security information and intelligence. The IAC, however, is an interdepartmental committee relying on other departments and agencies for threat analysis and dissemination. **The Committee recommends that the Security and Intelligence Secretariat of the Privy Council Office be expanded and strengthened to provide a single focus for the gathering of intelligence and assessments from federal departments and agencies for review by the IAC and for dissemination to the relevant federal departments and agencies.** Consolidation, in this manner, would parallel initiatives in other countries, such as the United States, Australia, New Zealand and the United Kingdom.

The "Domestic/International" Distinction for Crisis Management

The Department of the Solicitor General performs the lead role for coordinating the response to terrorist incidents occurring in Canada, while External Affairs performs the lead role for incidents outside of Canada. This split in responsibility parallels the U.S. structure, where the FBI is responsible for domestic incidents and the Department of the Secretary of State is responsible for coordinating the response to offshore incidents. It should be emphasized, however, that the preponderance of terrorist incidents affecting U.S. interests occur abroad; only a relatively tiny number now occur within U.S. territory. This phenomenon perhaps explains the need for the U.S. government to establish a crisis management apparatus geared exclusively to terrorist incidents occurring offshore.

The phenomenon does not apply to Canada. There have been very few terrorist incidents abroad that have targeted Canadians or Canadian establishments and none that have required a Canadian crisis management response during the incident. Although the focus is often abroad, Canada's terrorist threat is largely internal.

Further, the Committee sees a clear distinction between terrorist incidents abroad which target Canadians or Canadian establishments and require or may require a direct Canadian response and terrorist incidents abroad that involve Canadians only incidentally and require only monitoring, or consultation by Canada.* In the former instance, the Committee feels that the crisis management capability should be consolidated with that for domestic incidents. For the latter--which is a different function--the Committee feels that External Affairs should retain the lead role.

Finally, as was demonstrated before the Committee, the split in crisis management responsibility could result in a change in leadership between External Affairs and the Department of the Solicitor General during the incident. For example, aircraft hijacked abroad, entering Canadian airspace (and perhaps landing at a Canadian airport) and leaving would result, under the current arrangement, in a switch of leadership back and forth between External Affairs and the Department of the Solicitor General.

In summary, the Committee feels that to keep direction, communication and accountability linkages as simple and "linear" as possible, to maintain continuity of management and consistency of responses and to maximize the use of collective experience and expertise, responsibility for crisis management for domestic and offshore terrorist incidents must be consolidated.

Responsibility for Crisis Management

The Committee does not feel that responsibility for the management of the government's response to a specific terrorist incident or threat should reside with the Department of the Solicitor General, or with any other "line" department or agency. There are two factors that are essential to an effective government response. First, the communication and command structure should be as direct, simple

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* The Egypt Air hijacking that resulted in an armed assault by Egyptian forces on Malta in November, 1986 involved Canadians, but incidentally, and Canada did not play a major role in defining the response. The crash of Air India flight 186 required immediate government action to inform families of the victims and initiate an investigation, but there was no crisis to manage in the sense employed here.

and linear as possible. Second, the highest political level (the Prime Minister and senior Cabinet Ministers) has to be fully and continuously informed and participate in the major decisions.

The Committee reviewed practice in other countries. Although not conclusive, the Committee noted that crisis management in Britain and New Zealand involve the direct participation of the Prime Minister. The Committee also notes that the government's response to the Turkish Embassy incident and the Air India crash was managed by the PMO/PCO. Furthermore, several government witnesses appearing before the Committee stated that direct access to the Prime Minister and Cabinet was vital in crisis management and, in this regard, the coordinating role of the Department of the Solicitor General was a "nuisance".

Accordingly, the Committee recommends that responsibility for coordinating the federal government's responses to specific terrorist threats and incidents be managed by the PCO under the direct supervision and control of the Cabinet Committee on Security and Intelligence and the interdepartmental committee structure already in place.

CSIS/RCMP

The Committee has reviewed evidence and testimony alleging ineffective liaison (and perhaps organizational jealousies) between CSIS and the RCMP. The Committee believes that in at least one instance, more timely communication between the two agencies would have averted a terrorist incident. The Committee has been assured, however, that since that incident actions have been taken to avoid a recurrence and to enhance coordination and cooperation between CSIS and the RCMP. A basic reform has been the appointment of liaison officers between the two agencies. Further, in discussions with CSIS and RCMP officers, Committee members have concluded that RCMP/CSIS coordination works quite well at the working level. To the extent that coordination problems persist, they tend to be at the more senior levels and relate to continuing frictions over the transfer of the security service to CSIS in 1984.

At the time of writing this Report, there was one major RCMP/CSIS coordination issue unresolved: CSIS' access to the Canadian Police Information Centre (CPIC) data banks. CPIC contains criminal intelligence accumulated by Canadian and foreign police forces. Before the Committee, the RCMP maintained that the information contained in CPIC is, in effect, the property of the police forces and could not be released to CSIS without their approval.

The Committee very much supports the view of the Security Intelligence Review Committee that this issue must be resolved quickly. If agreements with police forces are necessary, those agreements should be consummated soon. Agreements with Canadian police forces could constitute part of the agreements now being negotiated between the RCMP and provincial and local police forces pursuant to Part IV of the **Canadian Security Intelligence Service Act**.

The Special Emergency Response Team (SERT)

According to testimony before the Committee, Cabinet asked both DND and the RCMP to prepare proposals on the organizational location and operation of an anti-terrorist emergency response team. Although neither agency particularly wanted the function, the RCMP proposal was accepted and SERT is located within the RCMP.

It must be emphasized that Canada's decision to locate SERT within the national police force is certainly not unprecedented. The Committee reviewed the practice of 24 Western and other governments in the location of their national terrorist emergency response teams. The countries were chosen by virtue of the past exposure to and direct experience with terrorist attacks. As can be seen from Figure 5, in 14 countries the principal responsibility is housed within the armed forces, in six countries it is located within the national police and a hybrid location has been adopted by three countries.

These results should be carefully analyzed. Some countries, such as the U.S. and France, have two emergency response teams; one in the military and one under the national police. Some teams are located in the police, but the police force is "militarized" (eg. West Germany) and in some cases, fall under the responsibility of the Minister of Defence (eg. France). In Belgium, the "gendarmerie" not only reports to the Minister of Defence, but is considered one of the armed forces. In some cases the location of the emergency response team was based on other than strategic reasons. For example, a consideration behind West Germany's choice of the police force was to avoid comparisons with Hitler's S.S. In the U.S., constitutional considerations (*posse committatuss)* led to the use of the FBI to handle terrorist incidents within the United States.

Although there appears to be a preference internationally for the location of ERT's within the military, the preference need not be conclusive in itself. Perhaps of greater significance is that, of the national ERT's usually ranked in the top ten in terms of efficiency, five are located in the military, three are located within militarized police forces (of which one reports to the Minister of Defence) and two are located within national police forces.

Figure 5

Assault Forces

Country	Name	Location
Argentina	"Halcon 8"	Armed Forces
Australia	Special Air Service (SAS)	Armed Forces
Austria	Gendarmerieeinsatzkommando (Cobra Unit)	Police
Belgium	Escadron Special d'Intervention (ESI)	Militarized Police (under Defence)
Brazil	Special Forces	Armed Forces
Denmark		Armed Forces
	Politiets Efterretningstjeneste (PET)	Police Intelligence Service
Egypt	Force 777	Armed Forces
Finland	Osasto Karhu	Helsinki Police
France	Groupe D'Intervention de la Gendarmerie Nationale (GIGN)	Militarized Police Force (under Defence)
	Regiment Etranger de Parachutistes	Armed Forces
India	Special Counter-terrorist Unit (SCTU)	Armed Forces
Ireland	Special Branch	National Police
	Special Ranger Unit	Armed Forces
Israel	Israeli Paratroop Battalion	Armed Forces
	Sayaret Matkal	Intelligence
Italy	Groupe Intervention Speciale (GIS)	National Police
	Nucleo Operativo Centrale di Sicurezza (NOCS)	National Police
Netherlands	"Whiskey Company"	Royal Dutch Marines
New Zealand	Special Air Service (SAS)	Armed Forces
Norway	Beredskapstrop	National Police
Pakistan	Special Services Group (SSG)	Armed Forces
Spain	Grupo Especial de Operacions (GEO)	National Police
	Unidad Especial de Intervencion (UEI)	Civil Guard
Sri Lanka	Army Commando Squadron	Armed Forces
Sweden	Sakerhets Polisen (SAPO)	National Police
United Kingdom	"Special Air Service"(SAS)	Armed Forces
	Comacchio Company	Royal Marines
	DII Unit	London Metro Police
United States	Delta Force (international)	Army
	Hostage Response Team (HURT)	National Police
	Nuclear Emergency Search Team	Department of Energy
	Counter Assault Team (CAT)	Secret Service
	Special Emergency Tactic Team (SETT)	National Park Police
USSR	Spetsnaz	Army
West Germany	Grenzschutzgruppe-9 (GSG-9)	Militarized Border Police

The Committee understands that the government's decision to locate SERT within the RCMP was made in light of the following policy considerations:

- RCMP forces across Canada have established emergency or "SWAT" teams for armed intervention in hostage/barricade situations involving criminal elements or disturbed persons. These teams are not, however, equipped or organized to deal with especially skilled terrorists in difficult tactical situations. Establishing SERT within the RCMP, therefore, was an incremental measure to provide a capability to deal with the full range of terrorist actions in evidence worldwide;

- The RCMP had created the HART team for the 1981 Summit Seven Conference. Former members of HART constitute the nucleus for the RCMP SERT;

- Assault actions to rescue hostages from terrorists represents an extreme end of the law enforcement continuum in response to what is essentially a criminal act;

- While it is true that an anti-terrorist assault requires a combat- like operation, the development by Canadian and other countries' police forces (including the RCMP) of specialized tactical units recognizes that, given the trend in criminal activity, such operations are no longer the sole preserve of the military;

- Terrorist acts in Canada fall within civil law enforcement authority and within the responsibility of police forces under the **Criminal Code;**

- Under the **Canadian Security Intelligence Service Act** the RCMP play the principal role in the operational response to "security offences" under the **Security Act;**

- Placing SERT within the RCMP simplifies the communications, direction and accountability links. With SERT in the RCMP the Solicitor General, as the Minister responsible for coordinating the government's response to terrorism, has under his direct ministerial control all the mechanisms of response. With SERT in DND, responsibility and accountability for the response would be split; the lines of decision-making and communication would become more complicated and less "linear";

- With SERT within the RCMP the military can still be held in reserve to respond to an extraordinary terrorist incident in aid of the civil power.

The Committee does not find these considerations compelling and feels it is more logical to locate SERT within DND. Accordingly, the Committee proposes that Cabinet reconsider the 1986 decision.

The Committee's reasoning is as follows:

- The RCMP will continue to rely on transportation, logistical, training and other support from DND;

- To be effective, SERT must have an internal intelligence gathering and research capability to evaluate and apply new assault tactics, weapons, explosives and equipment technology. These functions could logically be provided by the military;

- To be effective, the SERTeam must be trained to and be capable of killing terrorists. The Committee doubts that this is a function that sits well with peace officers trained to protect life and property within a community. The Committee feels that the training of SERTeam members is a logical extension of military training and that an anti-terrorist SERT operation is more akin to a military operation than a police one;

- The police forces of most large municipalities and Ontario and Quebec have their own emergency response teams. The Committee fails to see the logic of one police emergency team (the RCMP) being available to supplant another police emergency response team (the provincial or local police);

- The Committee notes the plethora of ERT teams in many locations and is concerned that this may not be the most effective use of scarce resources. An incident in Toronto, for example, could be handled by the Metro Toronto Police ERT, the Ontario Provincial Police ERT, the RCMP ERT or the RCMP SERT;

- The Committee doubts that SERT could effectively respond to two or more terrorist incidents happening coincidentally across Canada. In fact, unless the incident is protracted, a SERTeam located in Ottawa would often be unable to arrive in time to have an impact.*

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* Terrorist incidents appear to be resolved very quickly, or to be protracted. Skilled negotiators can, if necessary, help to "string out" an incident to allow an emergency response team time to arrive and prepare itself. The major terrorist incidents internationally to which emergency response teams have responded--Djibouti, Entebbe, Depunt Train and Bovensnilde School (Netherlands), Mogadishu, Prince's Gate (U.K.)--were several days in duration.

The Committee makes its recommendation with the full knowledge that substantial resources have been committed to the establishment and training of the RCMP SERTeam. To avoid unnecessary disruption and waste of these resources, the Committee recommends that the RCMP officers trained for SERT be seconded to the DND SERT until their normal tour of SERT duty has been completed. Over time, therefore, the SERTeam would gradually comprise only armed forces personnel.

Role of the Department of the Solicitor General

In evaluating, the role of the Department of the Solicitor General in coordinating the counter-terrorism activities of the federal government, the Committee reviewed the approach of several other countries, including Australia, New Zealand, the U.S. and the U.K. The main objective was to test whether this coordination function should best be conducted in a "line" department, or by an organization reporting to the head of government (Prime Minister or President). In fact, practice and experience varies.

The Committee is concerned about how effectively the Department of the Solicitor General can coordinate the counter-terrorism structure. The abilities of successive solicitors general notwithstanding, the portfolio is a junior one, having less prominence and power within Ottawa than many of the departments it is supposed to coordinate. Second, although CSIS and the RCMP report to the Minister, the Department has no operational role *per se* in implementing counter-terrorism policies. (A senior official of the Department appearing before the Committee described the Department as providing the "mortar between the bricks"; the bricks representing the individual operational departments.) Finally, the coordinating role of the Department is inadequately recognized or comprehended by other departments and agencies within the federal government, particularly by the Department of External Affairs.

In spite of these misgivings the Committee has concluded that, from a government organization perspective, the Department of the Solicitor General is the proper location for coordinating the federal counter-terrorism structure. The Department must, however, reinforce its efforts to organize itself and commit the necessary personnel and resources to fulfill this function.

The designation of the Department as the coordinator makes sense for the following reasons:

- It reflects the fact that the response to terrorism as it affects Canada is largely a function of internal security;

- CSIS and the RCMP, the two principal counter-terrorist agencies, report to the Solicitor General;

- The Prime Minister, PMO/PCO, the Cabinet and the interdepartmental committee structure should be left in reserve to monitor the overall performance of the structure (including the effectiveness of the Department of the Solicitor General) and to respond to specific terrorist threats and incidents;

- Leaving responsibility with a "line" department avoids contributing to the excessive workload already carried by the Canadian Prime Minister and avoids increasing the centralization of power and responsibility with the Prime Minister and a few "central agencies".

If the Department of the Solicitor General is to be an effective coordinator, it is essential that it strengthen its resources and its credibility within the federal government. The Prime Minister, senior Ministers and the interdepartmental committee structure should also do more to ensure that the role of the Department is communicated to and acknowledged by other departments and agencies.

Formality and Political Oversight

The Committee was struck by several elements of the practical, day-to-day operation of the federal government's counter-terrorism structure:

- The Cabinet Committee on Security and Intelligence meets only three or four times each year;

- The Secretary to the Cabinet (the senior public servant and the senior bureaucratic advisor to the Prime Minister) chairs the Interdepartmental Committee on Security and Intelligence less than one-third of the time, even though he is the nominal chairman; and

- The counter-terrorism structure is largely bureaucratic, based on administrative arrangements and agreements with no legal force or effect that have grown up over time. For example, the coordinating role of the Department of the Solicitor General was agreed to by the (bureaucratic) Interdepartmental Committee on Security and Intelligence and has been referred to subsequently by Cabinet decisions and in Prime Ministerial mandate letters. The Committee understands, however, that the role was never reviewed, or approved by Cabinet *per se*.

In the Committee's view, Ministers (and particularly the Prime Minister) and their most senior bureaucratic advisors must take a direct role in overseeing the government's counter-terrorism policies and initiatives and the operation of the structure. The Committee has noted the abundant potential for duplication, overlap and "turf battles" in the bureaucratic structure. Only direct involvement by Ministers, especially the Prime Minister, can ensure that the structure performs to expectations. Without continuous involvement by Ministers to ensure timely transfer of security intelligence to the relevant departments, agencies and police forces the counter-terrorism structure will falter. Further, the Tower Commission of Inquiry into the U.S. government's involvement in the sale of arms to Iran indicates, perhaps in the extreme, what can happen when a bureaucratic structure begins to weave its own web of policies and procedures due to inadequate political oversight.

The Committee is also concerned about the apparent "informality" of the structure. If a department or agency is to perform a "lead" role in coordinating the counter-terrorism or anti-terrorism establishment, this role should be specified in legislation, as should the roles of other departments and agencies playing an important function in the government's counter-terrorism and anti-terrorism establishment. The administrative agreements between departments and agencies within the structure should also be available for review and comment by the relevant parliamentary committees. The current complexity and informality of the structure and process obscures--and could confuse--responsibility and accountability to Parliament and to the public.

Part III

IMMIGRATION POLICIES AND PROCEDURES

Summary

Canada is largely a country of immigrants; a strongly multi-ethnic and multi-cultural society. Immigration has been essential to Canada's growth and prosperity and will continue to be so. Canada is a multicultural country that has forged at least since the Second World War and continues to forge a commendable record of immigration that is blind to race, colour, ideology or religion. The Committee was not concerned with immigration policies and procedures, except to the extent they relate to its mandate. The Committee is concerned about the ease with which terrorists may gain entry into Canada through current immigration procedures, including current security screening processes.

It is the Committee's general observation that Canada's immigration policies and procedures were prepared prior to international terrorism becoming a major concern to policy-makers. As a consequence, the thrust of the current legislation is to protect individual rights when screening applicants for entry into Canada. When examined strictly from the perspective of counter-terrorism, the complexity of current immigration policies and procedures and the numerous review and appeal avenues cause the Committee concern. Our immigration procedures appear to be on the verge of complete collapse under the pressure of current entry volumes. Of particular concern to the Committee is that current procedures cannot or do not, in many instances, effectively and expeditiously identify, deport, detain or block the entry of terrorists or persons with suspected terrorist intentions or associations. The large volumes of entrants into Canada puts an enormous burden on the immigration system and on police and security agencies, making it very difficult to operate an effective security screening process.

Background

The purpose of this Part is to review Canada's immigration laws, policies and procedures to see how effectively they can identify terrorists, suspected terrorists or those likely to commit acts of terrorism.

There are six federal departments and agencies that play a major role in the implementation of Canada's immigration policies and procedures: External Affairs, the Canada Employment and Immigration Commission (CEIC), the Immigration Appeal Board, Revenue Canada (Customs & Excise), CSIS and the RCMP. Transportation companies carrying passengers to Canada also play an important role.

There are three basic levels of review for persons from abroad wishing to enter Canada: an offshore review process, undertaken by persons requiring visas for entry into Canada before departure for Canada; a port of entry review process for all persons on arrival in Canada; and a review process in Canada to determine the status of persons who wish to vary the terms of their original admission. The following general description of the roles and mandates of the organizations involved is set out on that basis:

Department of External Affairs

Persons wishing to come to Canada as immigrants may apply to a Canadian mission abroad for a visa. Persons from designated countries (See Figure 7) wishing to enter Canada for any reason may also apply for a visa at a Canadian mission abroad.

Prior to 1982, officials of the Employment and Immigration Commission at Canadian posts abroad reviewed applications and issued visas. Since 1982 and the amalgamation of the foreign service element of immigration within External Affairs, this function is undertaken by foreign service officers of the Department of External Affairs located in Canadian missions abroad.

In performing these activities, External Affairs officers implement policies and procedures that are devised by or fall under the responsibility of the Minister and officials of the Employment and Immigration Commission. They also rely extensively on the RCMP and CSIS for gathering security-related information concerning applicants.

Transportation Companies

Aircarriers and other transportation companies bringing passengers into Canada have a series of responsibilities imposed upon them by the **Canadian**

Immigration Act, 1976.* In essence, they are supposed to ensure that non-Canadians entering Canada have with them appropriate personal documentation for entry into Canada (passports, visas, birth certificates, etc.). Refusal or failure to perform this function could result in financial penalties to the company, or at least responsibility to return passengers without appropriate documentation to the point of embarkation or pay the cost of their detention in Canada. In cooperation with CEIC and IATA, External Affairs officers in Canadian missions abroad provide advice and training to aircarriers and airline personnel (and sometimes to foreign governments' immigration control personnel) to keep them up-to-date on documentation required and the latest trends and developments in false or counterfeit documentation. Officials from CEIC will also travel abroad to review procedures or brief airline personnel in locations where problems seem to be occurring.

Figure 6

COUNTRIES WHOSE CITIZENS ARE EXEMPT FROM CANADA VISITOR VISA REQUIREMENTS

Andorra	Dominica	Malaysia	Solomon Islands
Anguilla•	Falkland Is.•	Malta	Spain
Antigua & Barbuda	Fiji	Mexico Monaco	Surinam
Argentina	Finland	Montserrat•	Swaziland
Australia	France	Nauru	Sweden
Austria	Germany-FR	Netherlands	Switzerland
Bahamas	Gibraltar•	New Zealand	Tonga
Barbados	Greece	Nicaragua	Trinidad & Tobago
Belgium	Grenada	Norway	Turks & Caicos Is.•
Belize	Honduras	Panama	Tuvalu
Bermuda•	Hong Kong•	Papua New Guinea	United Kingdom
Bolivia	Iceland	Paraguay	U.S.A.
Botswana	Ireland (Eire)	Pitcairn Is•	U.S. Virgin Is.
Brazil	Israel	St. Helena•	Uruguay
British Virgin Is.•	Italy	St. Kitts & Nevis	Vanuatu
Brunei	Japan	St. Lucia	Venezuela
Cayman Is.•	Kenya	St. Vincent	Western Samoa
Costa Rica	Kiribati	San Marino	Zambia
Cyprus	Lesotho	Saudi Arabia	Zimbabwe
Denmark	Liechtenstein	Seychelles Rep.	
	Luxembourg	Singapore	
	Malawi		

•British Colonies

* Part V, sections 86 through 94. These sections apply to all modes of transportation.

Figure 7

COUNTRIES WHOSE CITIZENS REQUIRE VISAS IN ORDER TO ENTER CANADA AS VISITORS

Afghanistan
Albania
Algeria
Angola
Bahrain
Bangladesh
Benin
Bhutan
Bulgaria
Burkina Fasco
Burma
Burundi
Cameroun
Cape Verde Is.
Central African Republic
Chad
Chile
China
Colombia
Comoros
Congo
Cuba
Czechoslovakia
Djibouti
Dominican Rep.
Ecuador
Egypt
El Salvador
Equatorial Guinea
Ethiopia
Gabon
Gambia
German Dem. Rep.
Ghana
Gjinea-Rep.
Guinea-Bissau
Guatemala
Guyana
Haiti
Hungary
India
Indonesia
Iran
Iraq
Ivory Coast
Jamaica
Jordan
Kampuchea (Cambodia)
Korea (North)
Korea (South)
Kuwait
Laos
Lebanon
Liberia
Libya
Malagasy Rep.
Maldives
Mali Rep.
Mauritania
Mauritius
Mongolian People's Rep.
Morocco
Mozambique
Namibia
Napal
Niger
Nigeria
Oman
Pacific Is.-U.S. Trust
Terr. of Pakistan
Peru
Philippines
Poland
Portugal
Qatar
Romania
Rwanda
Sao Tome e Principe
Senegal
Sierra Leone
Somali Rep.
South Africa
Sri Lanka
Sudan
Syria
Taiwan
Tanzania
Thailand
Togo
Tunisia
Turkey
Uganda
United Arab Emirates
U.S.S.R.
Vietnam Socialist Rep.
Yemen Arab Republic
Yemen-People's Dem. Rep.
Yugoslavia
Zaire

Employees at transportation companies play an important role in stopping people with no or false documentation at the point of embarkation for Canada. Effectiveness varies, however, and in any event, employees have a host of functions to perform and cannot be expected to have a detailed, technical knowledge on Canadian immigration policies and procedures. Further, there is little that employees can currently do with passengers who dispose of their documentation after boarding an airplane as part of a planned strategy designed to abuse or take unfair advantage of Canadian immigration procedures.

Canada Employment and Immigration Commission (CEIC)

The Immigration Branch of the Canada Employment and Immigration Commission (CEIC) administers the **Immigration Act, 1976** and Regulations and generally sets--and in most cases administers--procedures on the admission of immigrants, refugees and visitors in accordance with the economic, social and cultural interests of Canada.

Within this very broad mandate, CEIC manages the overall intake and composition of immigrant and visitor flows to Canada, approves sponsorship applications in Canada and certain types of arranged employment, in-Canada landings of immigrants and transactions concerning the status of students and workers. The objective of the Adjudication Directorate of CEIC is to ensure that immigration inquiries and detention reviews are held in accordance with the **Immigration Act, 1976** and **Immigration Regulations**, the principles of natural justice and the policies of the Directorate, within the time frame established by the Act and Regulations.

Refugee Status Advisory Committee (RSAC): Within CEIC is a committee of public servants and private individuals appointed by the Minister pursuant to the **Immigration Act, 1976**. A representative of the U.N. High Commission for Refugees may also attend meetings as an observer ex officio. The RSAC's role is to advise the Minister on any person entering Canada who claims to be a refugee as defined by the Geneva Convention. The decision on whether to grant refugee status rests with the Minister based on information provided by an applicant pursuant to an examination under oath by a senior Immigration officer and with advice from the RSAC.

Immigration Appeal Board (IAB)

The **Immigration Appeal Board** operates pursuant to the **Immigration Act, 1976**. It has up to 50 members appointed by the Governor-in-Council (Cabinet) who are located and hold hearings at major centres across Canada. The IAB is a quasi-judicial, independent court of record. It performs an appeal function from administrative decisions made by the Minister, or by officials of CEIC or External Affairs with respect to:

- Appeals against removal orders, on questions of law, fact, or mixed law and fact by permanent residents, or persons in possession of a returning resident permit. The Board can also rule in favour of an appellant based on a consideration that a person should not be removed "having regard to all the circumstances of the case", except in security cases;

- Appeals by those found to be refugees but ordered removed (on the basis of security considerations), or by those refused admission despite possession of a valid visa, on questions of law, fact of mixed law and fact. "Compassionate and humanitarian" factors may also be considered by the Board, but not with respect to security cases;

- Appeals by sponsors of family class applicants against a decision to refuse the admission of such relatives, again on questions of law, fact or mixed law and fact. Except in security cases, compassionate and humanitarian grounds may also be considered; and

- Appeals by the Minister against decisions of Adjudicators (officials of CEIC) to admit certain persons or to refuse to remove others.

In addition, the Board reviews applications for the redetermination of claims to Convention refugee status. Prior to 1985, redetermination of refugee status could be considered by the Board without an oral hearing. Since 1985 (and a Supreme Court of Canada decision under section 7 of the **Canadian Charter of Rights and Freedoms**) all such applications are determined by the Board on the basis of an oral hearing.

The Board also considers the following matters:

- Applications for a "redetermination" by persons whose claim for refugee status has been refused by the Minister;

- Applications from persons applying for release from detention ordered under the Act; and

- Applications from persons who wish to return to Canada for the purpose of appealing a removal order.

In 1985 the Board began the year with 2,376 cases pending. During the year, 2,871 new cases were received. 1986 began with 3,490 cases pending. Most decisions of the IAB are subject to appeal to the Federal Court and to the Supreme Court of Canada on questions of law, with leave of the relevant court.

Revenue Canada (Customs and Excise)

Actual admission into Canada can only be granted at a Canadian port of entry pursuant to the **Immigration Act, 1976**. Persons wishing to enter

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* Singh v. Minister of Employment and Immigration [1985], 1SCR/77, pursuant to which the Act was amended to provide for oral hearings in every case to satisfy the guarantee of "fundamental justice" under section 7.

Canada at a Canadian port of entry will first appear before one of 4,000 uniformed Customs officials stationed at Canadian border points of entry, at major sea ports and at all international airports across Canada. Customs officials administer 66 pieces of legislation, including the **Immigration Act, 1976**, on behalf of a range of federal departments and agencies. As such, Customs officials constitute what is called "the Primary Inspection Line".

The role of Customs officials is to determine persons' admissability into Canada under the **Immigration Act, 1976** and to discover if persons have proscribed materials or devices, such as explosives or firearms, in their possession when entering Canada. At larger points of entry, Immigration officials are on hand to handle any referrals from a Customs official on immigration grounds. Across the Canada-U.S. border and at the smaller ports of entry there are no Immigration officers present and Customs officials perform the full gamut of immigration reviews and clearances required at that stage.

Last year, approximately 80 million people entered Canada. Of these about half were non-Canadians. Because of the volume of traffic, secondary examinations and searches were performed on only about five percent of entrants. An "early warning system" that identifies undesirable entrants in advance is, therefore, essential. In this regard, Immigration has its own intelligence capability and liaises closely with CSIS, the RCMP, local police forces in Canada and abroad, Interpol and with the immigration administrations of other countries. Intelligence gathered through this network allows Canada Customs to devise a "lookout list" of undesirables, including persons having criminal records or associations suspected of trying to enter Canada. The lookout list is provided on 430 computer terminals located at major ports of entry, through the Field Operations Support System (FOSS), a computer-based information retrieval system and at small ports on microfiche and "lookout" books.

Canadian Security Intelligence Service (CSIS)

In addition to its role as the primary federal agency for the collection and dissemination of intelligence for the Government of Canada, CSIS performs background checks on immigrants and selected visitors applying for visas at a Canadian mission abroad. (As will be discussed later, checks are not performed on every applicant; only on those approved by a visa officer and falling within a CSIS "security profile".) In performing these checks abroad, the CSIS liaison officer will contact the national police force and the security and intelligence agency of the applicant's country of origin and current residence. CSIS will also perform a security check on roughly the same basis for persons who have arrived in Canada without having gone through the visa application process or those who apply for refugee status.

RCMP

The RCMP, pursuant to a memorandum of understanding with CEIC, performs background checks on persons arriving in Canada and claiming refugee status when the Immigration officer has reason to question their identity or background. (This verification will usually be required in the instance of persons arriving with no, false or incomplete documentation.) In such instances, CEIC will interview, fingerprint and photograph the individual and provide that material to the RCMP. The RCMP will then check its own records and liaise with the national police forces of the person's country of origin and likely with the police in the countries through which the person has passed en route to Canada. The information obtained is provided to CEIC and the responsibility resides with Immigration officials to decide if enforcement action should be initiated.

The Security Intelligence Review Committee (SIRC):

SIRC performs a review function in the instance of denied applications for visas, entry of visitors, landed immigrant or refugee status based on criminal or security intelligence reports, the content of which cannot be released due to their sensitive nature. The role of SIRC, in this regard, is set out in the **Immigration Act, 1976**, as amended in 1984.

When a person faces deportation or rejection of a claim to refugee or permanent resident status due to an adverse security report, the report is provided to SIRC and the person is informed of his status. SIRC, in turn, makes its own investigation and gives the applicant the right to appear before it and respond to the substance or conclusions of the report. Following its investigation, SIRC makes a recommendation to the Governor in Council. Based on that report, the Governor in Council may issue a "directive" to the Minister of Immigration to issue a certificate that the applicant constitutes a security risk as defined in the **Immigration Act, 1976**. That certificate is then conclusive proof to Immigration officials, the Refugee Status Advisory Council and the Immigration Appeal Board that the individual constitutes a security risk.

Since the 1984 amendments to the **Immigration Act, 1976**, there have been 13 cases referred to SIRC under the **Citizenship Act** and one case referred to SIRC under the **Immigration Act, 1976**.

Immigration Policies

Canada's immigration policy is set out in the **Immigration Act, 1976.*** The objectives of Canada's immigration policy are enumerated in section 3. Of relevance to this Committee, subsection 3(i) recognizes the need:

• To maintain and protect the health, safety and good order of Canadian society;

and subsection 3(i) seeks:

•To promote international order and justice by denying the use of Canadian territory to persons who are likely to engage in criminal activity.

Section 19** lists classes of people deemed by the Act to be "inadmissable" into Canada. Some of these classes include persons who have been found guilty of certain criminal offences or for whom there are reasonable grounds to believe they will commit certain criminal offences, persons who have engaged in or for whom there are reasonable grounds to believe that they will engage in acts of "espionage or subversion against democratic government, institutions or processes as they are understood in Canada"; persons who are suspected of engaging in subversion by force of any government, while in Canada; and persons who are suspected of engaging in acts of violence while in Canada or who are members of or likely to participate in violent organizations. The Act gives discretion to Immigration Adjudicators to allow entry of an inadmissable person for up to 30 days, subject to terms and conditions.

"Refugee" status was recognized in Canada for the first time in the 1976 Act. The Act*** adopts the definition of refugee contained in the **1951 United Nations Convention Relating to the Status of Refugees (the Geneva Convention)** and the 1967 **Protocol to the Convention** essentially as a person outside his country of nationality or without a nationality who seeks entry into Canada due to "a well-founded fear of persecution" for reasons of race, religion, political opinion, nationality, or membership in a particular group. Important to note, however, is that the Act does not include the "exclusionary provisions" (Paragraph f, Article 1) of the Convention that would have allowed Canadian authorities to deny refugee status (and access to Canada) to persons "...with respect to whom there are serious reasons for considering that:

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* The Act actually came into force in 1978.

** Cross-referenced in Section 27, **Immigration Act**

*** Refugee status defined by the Geneva Convention and Protocol, was first entrenched in Canadian statute law in the **Immigration Appeal Board Act**, 1973.

• He has committed a crime against persons, a war crime or a crime against humanity as defined in the international instruments drawn up to make provisions in respect of such crimes;

• He has committed a serious non-political crime outside the country of refuge prior to his admission to that country as a refugee; or

• He has been guilty of acts contrary to the purposes and principles of the United Nations.

Refugee Determination Procedures

The refugee determination process provides considerable potential for abuse from a security perspective because of the current volume of refugees, the fact that many refugees are in Canada while their claim is being processed and because the process is lengthy and complex. Of interest to the Committee is the process whereby persons who are already in Canada may seek refugee status and remain in Canada while doing so.

A total of 18,282 persons indicated that they wished to claim refugee status in Canada in 1986. Most did not have their claims heard or decided in 1986. That same year 1,749 persons were accepted as refugees. 28,562 persons applied for admission to Canada at overseas posts in 1986 under refugee and designated class categories. 17,213 were admitted from overseas as immgrants and were granted permanent resident status on arrival in Canada.

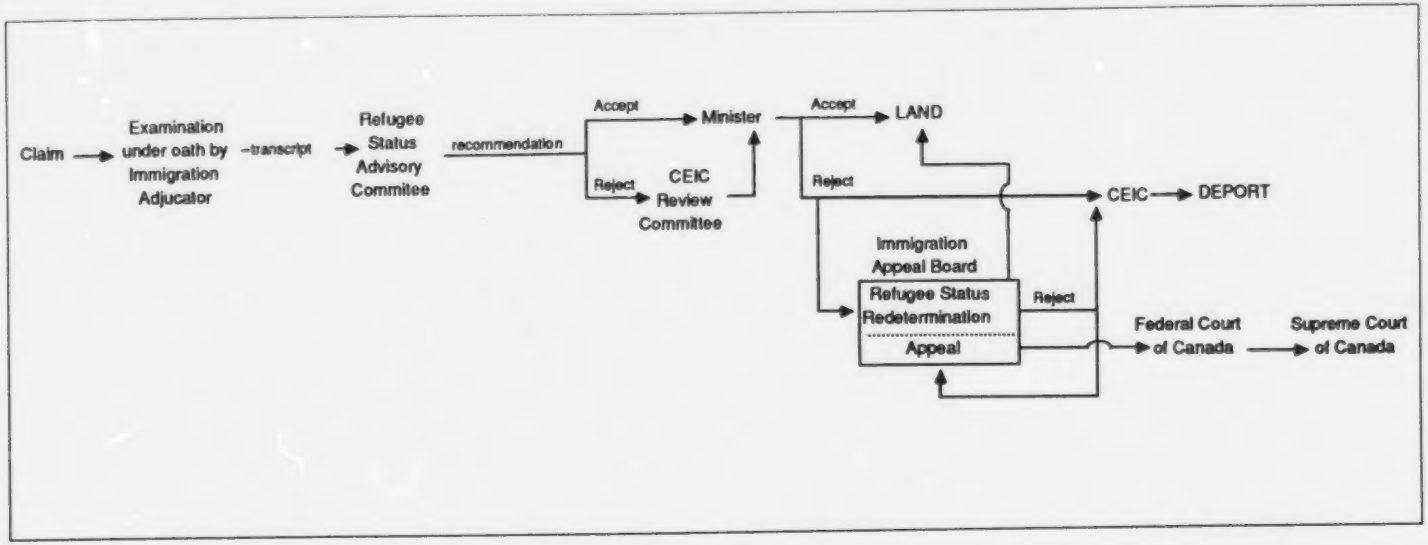
Approximately 99,000 persons were granted permanent residence staus in 1986. Of this 17,213 were admitted as convention refugees and members of a designated class from overseas, while 1,749 claimed refugee staus in Canada. Most refugees enter Canada as immigrants after having been selected by visa officials at posts abroad.

CEIC has been attempting to deal with the influx of refugee claimants through Bill C-55 tabled on May 5, 1987. In addition, steps have been taken to improve control measures though improved cooperation with airlines and other countries, through application of visitor visas to countries whose nationals abuse immigration control systems and though the administrative review which cleared a backlog of persons who entered Canada to claim refugee status prior to May 21, 1986.

Canada's refugee determination process is extremely complicated and involves a number of departments and agencies as described earlier in this Part. For ease of reference and comprehension, the procedures for refugee status are

Figure 8

Refugee Determination Process



set out at Figure 8. As reflected in that description, there are several review and appeal organizations that play important roles.

Anyone has the right to claim refugee status during an immigration inquiry or while a person has legal status in Canada. Only when a person has claimed refugee status during an immigration inquiry can that person seek a "redetermination" of the case by the Immigration Appeal Board (IAB). On the other hand, when a person who is legally in Canada has been refused refugee status and later becomes the subject of an immigration inquiry, that person may claim refugee status a second time. If the second claim is refused, the person has the right to seek a "redetermination" by the IAB. If that action is unsuccessful, the person may seek a review pursuant to section 28 of the **Federal Court Act** and ultimately is allowed to appeal to the Supreme Court of Canada. In addition, refugee claimants may seek redress through any or all of the prerogative writs.

Once recognized as a Convention refugee, persons are normally granted permission to work, are entitled to remain in Canada, may obtain a Refugee Travel Document to travel to other countries and are encouraged to apply for permanent residence (landed immigrant status) in Canada. The **Immigration Act, 1976** does, however, authorize the deportation of a Convention refugee if the person is considered to constitute a danger to national security or public order as described earlier in this Part. Such deportations occur only with ministerial approval and the person may appeal the decision to the IAB and may be granted leave to appeal to the Federal Court of Canada and the Supreme Court.

Visas

Under the **Immigration Act, 1976**, every person wishing to enter Canada as a visitor or landed immigrant requires a visa. By order-in-council, however, the government may exempt countries from the visa requirement. The decision to withdraw a visa exemption is taken by Cabinet after consideration of several factors, including the record of the country's nationals in regard to violations of the **Immigration Act, 1976**, and upon the advice of External Affairs.

After the Second World War, Canada required visitors visas for entrants from only a few, largely East Bloc, countries. Since then visas have been required from progressively more countries. Visa applications at a Canadian post abroad are the entree by which Canadian authorities can perform security checks to identify and bar from Canada criminal and terrorist elements. However, because visas are not required from all countries and because of the volumes of entrants into Canada, only a minority of visitors are given security checks prior to entry into Canada.

The Security Clearance Process

There are three essential points at which security clearances ("background checks") come into play in the immigration process. The principal player in the security clearance process is CSIS, pursuant to section 14 of the **Canadian Security Intelligence Service Act**.

The first point occurs if a person applies for a visitors or landed immigrant visa at a Canadian mission abroad. After completion of the appropriate forms and submission of the necessary documentation, a visa officer (an employee of the Department of External Affairs) will determine whether the person fits the admissions criteria under the **Immigration Act, 1976**. If the person fits, the application is referred to a CSIS security liaison officer at or responsible for the post. Depending on the type of applicant and how he or she fits into the security profile, the liaison officer may contact the national police force and the foreign government's security and intelligence agency to do a background check. If these checks result in adverse security information surfacing about the applicant, the information is provided to CSIS headquarters in Ottawa and a decision made there on whether to recommend to the Minister of Employment and Immigration that the applicant be excluded under subsection 19(1) of the **Immigration Act, 1976**. Unless the applicant is sponsored by a close relative already in Canada, he has no right of appeal from the Minister's decision and no right to review or rebut the information contained in the security report.

The second point is after a person arrives in Canada and is being processed as an applicant for permanent residence within Canada. Until April 1986, security checks on applicants were performed by CSIS after the applicants had met all other immigration requirements. If the Immigration officer has reason to suspect the person's background, or if the person has no or inadequate documentation, the RCMP may be asked to perform a background check. Once again, through its contacts with the national police and security agency in the applicant's country of origin, CSIS may perform a "background check". If adverse security information is obtained as a result, it will be provided to the Immigration officer, who may initiate enforcement action. That may lead to a deportation order under section 27 of the **Immigration Act, 1976**, subject to the reviews and appeals referred to above.

When the background check raises security concerns of a sensitive and confidential nature, the Minister of Employment and Immigration and the Solicitor General may jointly make a report to the Security Intelligence Review Committee (SIRC). SIRC then must review the information and provide the person with an opportunity to respond. SIRC, if it finds the concerns substantiated and compelling, will recommend Cabinet direct the Minister of Employment and Immigration and the Solicitor General to issue a "security

certificate" pursuant to sections 40 or 83 of the **Immigration Act, 1976**. That certificate acts as conclusive proof to any Immigration officer, the Refugee Status Advisory Committee and the Immigration Appeal Board that the applicant is "inadmissible" pursuant to subsection 19(1) of the Act.

The RCMP performs the major role in the third point of the security clearance process. The RCMP could advise immigration officials or other authorities of acts committed in Canada after a person's arrival that would result in that person being "inadmissible" as defined by subsection 19(1) of the Act.

In April 1986, the government announced a "temporary administrative review" to accommodate the growing backlog of refugee applicants. Basically, the applicant was offered an opportunity to apply for landed immigrant status as an alternative to a refugee status claim. During this review, CSIS performs a "cursory" security check at the very beginning (ie. before verification of documents and the medical examination) of the process. Once this "temporary administrative review" is completed, the screening arrangement will revert to the pre-April 1986 procedure.

There is one other aspect of the security clearance process that should be explored: detention. In some cases, a claimant for refugee status may have a background raising safety and security concerns of a nature that suggest the person should be detained while in Canada. The means by which such a person may be detained are various: the Deputy Minister or a senior Immigration officer, a peace officer (in most circumstances), or an Adjudicator may order detention in the interests of public safety, or to ensure a person's appearance at subsequent proceedings. Within 48 hours, however, the person must be brought before an Adjudicator for a review of the need for detention. Pursuant to subsection 104(7) of the **Act**, that Adjudicator has unfettered power to decide on the validity of the concerns expressed, notwithstanding information from other sources which may support continued detention. (If an Adjudicator makes an order for continued detention, it must be reviewed every seven days.)

Although the information on which such a decision is based may come from CSIS or the RCMP, the decision on detention is made by an Immigration Adjudicator. Pursuant to the **Immigration Act, 1976**, the Adjudicator must be satisfied that the individual concerned constitutes a danger to the public or that the person will not appear for the immigration inquiry. (Adjudicators may also apply bond requirements under the Act.) The Committee was told of at least one case recently where an Immigration Adjudicator decided not to detain a known IRA sympathizer in Canada on a visitor's visa, contrary to the advice of CSIS and the RCMP and the opinion of the Solicitor General and the Minister of Employment and Immigration. (In any event, this person left Canada, prior to the date of his deportation hearing.)

It is important to note that the security clearances by CSIS are done on a "profile" basis. Unless applicants fall into a "profile" of criteria, they are not subjected to a background check. Increasing volumes of applicants for refugee status or permanent residence have the natural and predictable effect of narrowing the profile criteria. To do otherwise would place a huge administrative burden on CSIS and further delay and complicate the processing of applications.* This phenomenon means, incidentally, that the "profiles" may vary from country to country and among Canadian posts, depending on the volume of applications. During the administrative review announced in April, 1986 a large sector of refugee applicants were "profiled-out" in order to speed up the process. In other words, only a cursory security check was performed.

In performing background checks on visa applicants, applicants for refugee status and so on, CSIS and the RCMP rely largely or exclusively on the police forces and security intelligence agencies of the applicants' countries of residence and the countries through which the applicants have travelled en route to Canada. This relationship depends, in turn, on whether agreements have been struck between Canada and the governments of these countries, on the exchange of such information. In many cases, such as Eastern Bloc countries, no such agreements exist. Furthermore, even when an agreement exists, the government may be administratively inefficient and slow to respond, adding further delays to the review process. Finally, the RCMP and CSIS must be careful not to accept information from certain governments at face value and to weigh it within the perspective of Canadian law and mores.

When all these factors are taken into account, although the RCMP and CSIS aim at a 90 day turn-around for background checks, it is not uncommon for a review to be completed many months after the applicant has actually arrived in Canada. This situation will be exacerbated by the recent increase in the number of refugee claimants arriving in Canada.

Bill C-55

On May 5, 1987, the Minister of State for Immigration tabled a bill proposing substantive amendments to the **Immigration Act, 1976**, having to do with refugee determination. Of relevance to this Committee's mandate are the following proposed changes:

• A person arriving in Canada claiming to be a refugee would first be interviewed by two persons: an Immigration Adjudicator and a member of the

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* For a detailed description of the profile system and criteria, see the Fifth Report of the House of Commons Standing Committee on Labour, Employment and Immigration, "Refugee Determination in Canada", Ottawa: November 7, 1985.

proposed "Refugee Board". A unanimous decision by the two officers at this point would be sufficient either to grant or to deny refugee status.

• A "split decision" at this interview would result in a referral to the Refugee Board for a full hearing. This hearing must take place within 10 days of the first interview. A unanimous decision of the Board is required for a ruling and the Board's decisions may be appealed to the Federal Court on matters of law.

• Persons arriving in Canada and claiming refugee status who come from a safe country, who have refugee status elsewhere or who had, but did not exercise, the opportunity to claim status in a safe country will be returned to that country. People with no arguable basis for their claim to refugee status would be returned to their country of origin.

• The exclusionary clauses of the Geneva Convention would be added to the Act, thereby authorizing the government to exclude refugees who have committed crimes referred to in those clauses.

• The fines payable by transportation companies for bringing passengers to Canada with fraudulent, inadequate or no documentation would be increased.

C-55 makes no changes to the security clearance process that supports the immigration process. CSIS will commence its security clearance process only after an individual's request for refugee status has been approved at the first or second set of hearings proposed by the Bill. The government has, however, established an interdepartmental task force on security and enforcement. That task force is just underway and is expected to report to the government in about one year.

COMMITTEE OBSERVATIONS AND RECOMMENDATIONS

It would be easy for the Committee to point out flaws, potential flaws or gaps in Canada's immigration system and make recommendations to reduce the potential for abuse by terrorists. For example, the Committee could recommend that CSIS perform security checks on all entrants, or that Canada establish a "border police" for the Canada-U.S. border. Such recommendations are not called for in light of the real terrorist threat to Canada and would impose large, additional administrative and resource burdens on the government.

With these considerations in mind, the Committee recommends a number of selected changes to the law and current procedures.

Visas

A person may apply for a visa at a Canadian post abroad and be denied that visa on security grounds. In the instance of a denial, there are no rights or grounds for appeal or review.* The Committee understands, however, that a person denied a visa on security grounds can present himself at a Canadian port of entry and claim refugee status. Having claimed refugee status, the person may remain in Canada while all the review and appeal procedures are followed. The Committee was told that, under current procedures, an average time elapses of one to two months after a person claims refugee status (at a port of entry) before an immigration inquiry by an Immigration Adjudicator. An average time of five months elapses before the decision of the Minister may be made on whether to grant refugee status. Thereafter, an average of four to six months elapses before a decision on "redetermination" may be rendered by the Immigration Appeal Board. If a refugee applicant is unsuccessful at each stage, but decides to exhaust all avenues of appeal open to him, the process could take up to seven years from beginning to end.

In the Committee's view, a person denied a visa on security grounds that are identical to the grounds set out in subsection 4(2) of the Immigration Act, 1976 for the exclusion of refugees should be ineligible to claim refugee status, should be barred entry to Canada and there should be no right of review or appeal from this decision.** It is evident to the Committee that a claim of refugee status in such instances represents a clear abuse of Canada's immigration policy and procedures that could result in terrorists or potential terrorists remaining in Canada for some time. Appropriate amendments to the **Immigration Act, 1976** and Regulations should be made to prohibit this practice.

The United States now requires visas from virtually all countries outside of the Western Hemisphere. Security considerations are one factor driving this policy. Canada's policy, as discussed earlier in this Part, is far less restrictive. **The Committee heard suggestions that Canada and require visas from more countries, especially from those whose citizens entering Canada could constitute a security risk. The Committee does not agree with this suggestion.** First, its implementation would require a substantial additional commitment of resources to Canadian missions abroad (including CSIS liaison officers). Second, according to External

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* Except for relatives of people sponsored by relatives in Canada who may appeal a rejection of their visa application to the Immigration Appeal Board.

** Except perhaps in the instance of family sponsored applicants.

Affairs officers the negative foreign policy and trade implications for Canada in imposing visa requirements could be enormous. Finally, as long as Canada persists with its current refugee policies and procedures, they will provide an end-run around any visa requirements.

The Committee is, however, concerned that persons who would otherwise require visas for entry into Canada disembark in Canada from flights en route to another country and claim refugee status in Canada. This undermines the purpose of the visa system in the first place and may provide access to Canada by persons who constitute a security risk. Further, such persons obviously are able to leave their country of residence and may even be en route to a "safe" country in any event. **Accordingly, the Committee feels it both reasonable and expedient to require transit visas for persons from any country for which Canada requires a visa.**

Officials' Discretion

The Committee is concerned about the extent to which bureaucrats outside of the security and police agencies may make decisions relating directly to security matters at several points in the immigration process, even to the extent of over-ruling or acting contrary to the advice provided by CSIS, the RCMP and SIRC. This discretion occurs with respect to deciding whether a person should be detained in Canada for security reasons while awaiting an immigration inquiry.

In the Committee's view, this situation is unacceptable and recommends that:

- **If a person has not already been detained and should CSIS or the RCMP recommend, in writing, that a person arriving at a Canadian port of entry be detained for security reasons, the Act should be amended to require the appropriate Immigration officer to detain the person for up to 48 hours. Detention for more than 48 hours would require a security certificate issued pursuant to the Immigration Act, 1976 analogous to security certificates governing actual inquiries. The issuance of a security certificate would require the relevant Immigration officer to detain the individual pending completion of an inquiry. The certificate should have to be renewed every seven days in order to continue to have effect.**

- **Should CSIS or the RCMP indicate, in writing, that a person arriving at a Canadian port of entry represents a security risk and recommends that the person be required to deposit a bond or security deposit pending an inquiry or during his stay in Canada, the relevant Immigration officer should be obligated to impose such requirements pursuant to the Immigration Act, 1976; and**

- **Should a security certificate be issued pursuant to the Immigration Act, 1976 or Citizenship Act, the person against whom such a certificate is issued should be banned from obtaining permanent residence status, refugee status or Canadian citizenship, as long as the security certification remains in effect.**

Refugee Status

Prior to 1976, the major flow of refugees to Canada arose from various refugee camps around the world. Displaced persons and refugees were selected and brought to Canada for resettlement. There was only a handful of people arriving at a Canadian ports of entry requesting refugee status. Policy-makers at that time devised a process to handle such a limited group. No one at that time foresaw or could have foreseen the huge influx of persons who arrive in Canada without visas and claim refugee status after arrival that was to occur within the next decade. No one, therefore, foresaw any danger in giving anyone who appeared in Canada the right to claim refugee status and the right to, what could be, a complicated and lengthy refugee determination process.

A Canadian security official stated that those refugee policies and procedures now constitute "a gaping hole in our security system". This occurs in two ways. First the volume of applicants overwhelms the administrative processes and decreases the ability of the security agencies to identify suspected security risks. Second, the system, with its procedural complexities, can be used by security threats to frustrate or delay their removal from Canada. As a practical example, a person can appear at a Canadian port of entry and be identified by the "look-out system" as a terrorist, criminal or a fugitive from justice. He may be arrested and detained, but in most cases an inquiry will be scheduled for a deportation hearing. During the deportation hearing, the person may claim refugee status, thereby adjourning the inquiry and giving the person a legal right to stay in Canada while he is processed through the protracted refugee determination system.

It is far beyond the Committee's mandate to review or propose major changes to Canada's immigration policies and procedures. The Committee

feels, however, that there are two basic options available to the government to close the security gaps in the immigration system: First, substantially enhance the screening process by expanding and enhancing the computer-based "look-out system", by increasing the number of inspectors at ports of entry and by decreasing the number of applicants who are "profiled out" for purposes of security checks. The second option would be to reduce the potential for abuse of the system by simplifying and making other changes to the refugee determination process. In this regard, some Committee members felt that any changes that made the immigration system more expeditious and generally viable would go a long way to enhancing the ability to identify and deport security threats.

Bill C-55 already recommends ways to simplify the process and reduce the potential for abuse. The Committee did not undertake a detailed review or evaluation of C-55 and makes no comment on the Bill. If the government chooses to move further in the direction of the second option, however, there are three additional measures for consideration as addition to C-55 that would further simplify and expedite the refugee determination process:

- A person who has applied for permanent residence in Canada should not be able to apply for refugee status before, during or after an application for permanent residence is rejected, unless changes have occurred in his situation or status in his country of origin or residence that could place him in Convention Refugee status;

- A claimant for refugee status should not have the right to make multiple claims of refugee status, after the initial claim of refugee status; and

- Persons in Canada should be allowed a relatively short and finite period (eg. four to six months) to claim refugee status. Thereafter, they should be ineligible to claim refugee status, unless significant changes have occurred in their country of origin that put them at risk.

Some members of the Committee* do not agree that these measures should be added to the refugee determination process. These members take the view that placing restrictions on the right to apply for refugee status would have only a limited impact on with the prevention of terrorism. They are not convinced that a preponderant or even significant number of refugee claimants constitute terrorist threats. The broad-brush approach embodied in these measures would affect not only terrorists, but also those who are genuine refugees. To the extent that there are true terrorist threats among those who claim to be refugees,

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* Senator Fairbairn, Senator Kenny, Senator Hays, Senator Bosa.

these members believe that such a problem should be dealt with more surgically, by speeding up the process and by sharpening arrest, detention or deportation procedures for those who are shown to be genuine threats.

Suggestions were also made to the Committee that Canada require all refugees to make their claim from abroad and obtain approval prior to entering Canada. In many cases, this requirement would impose undue hardship on legitimate refugees. A refugee, by definition, must apply for refugee status outside his country of origin. Most applications for refugee status are, therefore, made in a country of asylum probably close to the country from which applicants have fled. Canada does, however, assist persons in refugee-like situations in their countries of origin. Under the **Political Prisoners and Oppressed Persons Designated Class Regulations**, persons may come direct to Canada as immigrants from countries such as Poland, Chile, Guatemala and El Salvador.

Transportation Companies

Transportation companies are instrumental in ensuring that persons with no or inadequate documentation do not arrive in Canada. Yet, many people arrive in Canada with inadequate or fraudulent documentation, or none at all.

The Committee does not feel it unreasonable to require transportation companies, particularly aircarriers, to assume full responsibility for return transportation costs for any person arriving in Canada with inadequate or evidently fraudulent documentation or with no documentation at all. Such provisions are currently part of the **Immigration Act, 1976** and should be enforced.

The Committee is aware of the high level of sophistication of forgeries of documentation and is aware of the time and other pressures placed on air personnel. Some discretion must, therefore, be allowed to immigration officials in the instance of some fraudulent documentation, pursuant to the current Act.

Further, to guard against persons who intentionally destroy documentation en route, the Committee recommends that Canada, through IATA, require aircarriers flying into Canada to collect documents from passengers at embarkation for return on debarkation, in the same way that hotels in some European countries collect passports on arrival for return on checking out. The Committee understands the practical difficulties involved in collecting documents from a large number of passengers and redistributing them on debarkation. The Committee feels, however, that these practical difficulties can be overcome and, in any event, are worthwhile.

The Committee notes, in this regard, that Bill C-55 would amend the **Immigration Act, 1976** to authorize transportation companies

... to hold visas, passports or travel documents ...in order to ensure that (they) are available for examination by an Immigration officer at the port of entry and providing for their disposition (on arrival in Canada);*

thereby giving the government the ability to implement this recommendation.

* Subsection 30(3)(p) amending subsection 115(1)(p) of the **Immigration Act.**

Part IV

THE ROLE OF THE MEDIA

Summary

Media coverage of terrorist incidents worldwide has been the subject of considerable comment and criticism. Much has been said about the relationship between terrorism and the media; little of that has been supported by objective, empirical analysis.

In Canada, there is no evidence that media coverage before, during or after a terrorist incident has, to date, cost lives or materially interfered with the resolution of an incident. The Committee, however, examined media coverage of several recent terrorist incidents in Canada and identified information broadcast during the incident that could have endangered lives or prejudiced the resolution of the incidents. The way in which the police related to the media also left much to be desired and, in one instance, the police themselves released information that could have endangered lives.

Some witnesses--including one media representative--urged the Committee to propose legislation to govern media coverage of terrorist incidents. The Committee rejected legislation at the outset. In the Committee's view, any intrusion on the freedom of the press can only be justified under circumstances akin to wartime conditions. As stated earlier in this Report, the Committee does not believe that the threat or incidence of terrorism in Canada presents or is likely soon to present such circumstances.

The Committee examined a number of guidelines or policies of national media organizations and outlets on covering terrorist incidents. In the main, these guidelines do not address some of the serious issues raised by recent media coverage of terrorist incidents in Canada and abroad. Perhaps because there have been relatively few terrorist incidents in Canada, some media people

characterized the media and terrorism as a "non-issue" in Canada. The Press Councils abandoned an attempt to formulate guidelines, or to prepare a submission to the Committee. The Canadian Daily Newspaper Publishers' Association (CDMPA) said that the question of policies or guidelines was up to individual newspapers.

The Committee feels attention should be given to the role of the media in covering terrorist incidents, in particular to police-media relations during an incident and to better and more comprehensive guidelines. The Committee recommends that the federal government, through the Department of the Solicitor General and the RCMP, initiate discussions with national media organizations to devise practical and effective guidelines. The Committee prepared an outline of such guidelines as a base on which to begin discussions.

Background

The Committee noted the divergent views of journalists and others appearing before the Committee on both the current and the appropriate role of the media and an apparent lack of introspection in some quarters of the media on this subject. The Committee notes, in this regard, that media self-examination usually occurs after a widely-publicized terrorist event and wanes shortly thereafter, perhaps to be resuscitated by a subsequent event. A wave of seminars, conferences and guidelines was triggered by media coverage of a siege by Hanafi Muslims in Washington D.C., by the TWA hijacking in Beirut, and in Canada, by the media's handling of the Toronto Transit Commission bombing threat and the Turkish Embassy siege. With several notable exceptions, there has been little continuous discussion of performance, issues and concerns among media, police, law and government officials.

Much has been said or written about the media and terrorism. What has been said falls anywhere within a wide spectrum: At one extreme are those who contend that media coverage is "the oxygen of terrorism"; that there is a direct causal relationship between media coverage and terrorism and without media coverage, terrorism would wither and die. They point out that terrorists rarely obtain their demands or major concessions from governments. When judged on this basis, terrorism would represent a failure. Yet terrorism persists because it attracts media attention that, in turn, communicates the terrorists' causes and grievances to the world. At the other extreme are those who suggest that the media's impact on terrorism is positive. Without media coverage of terrorist threats and incidents, terrorists may be forced, they say, to

devise increasingly horrendous atrocities in order to compel media and public attention.

It is important, at the outset, to note that certain types of terrorism, such as state-sponsored terrorism, usually avoid any coverage by or connections with the media. The activities of such terrorists are best conducted in a murky netherworld, far away from the light of media coverage and scrutiny. Other types of terrorism thrive on fear cultivated by rumour and panic. In such instances, accurate and objective media accounts may work against the terrorist by providing accuracy, proportion and perspective. Such terrorist groups also discourage media coverage of incidents.

There is evidence, however, that some relationship exists between media coverage and the types of terrorism referred to in the Introduction that are principally of concern to Canada and to Canadians. The following section reviews some of the opinions expressed before the Committee by witnesses and in submissions.

A Precis of Testimony Before the Committee

The Potential Positive Impacts of the Media

The First Contact: Several witnesses stated that terrorists often trust the media, will contact journalists and try to bring the media into an incident. For example, in the Bahamian High Commission incident in Ottawa, in April 1986, the hostage-taker took with him a list of local television and radio stations and their telephone numbers. After establishing contact, he insisted that a reporter from a local television station act as an intermediary between him and the authorities. In the case of the Turkish Embassy incident in Ottawa, the terrorists not only contacted local media outlets, but also tried to "negotiate with the media" to the exclusion of police and other authorities.

Since media people are often sought out and first contacted by terrorists, rather than being excluded from involvement in incidents, they suggest that there be more effective dialogue and consultation between media and the authorities so that the media knows better what to do or say when contacted by a terrorist. Certain responses by a journalist could go a long way to defusing or stabilizing an incident. Other responses could inflame an incident and could endanger lives and property. Furthermore, both journalists and police often agree that the media can sometimes assist in the negotiation process.

Further, experience with previous terrorist incidents in Canada and abroad indicates and several witnesses before the Committee confirmed, that the media will often be the first on the scene of a terrorist incident and it is impractical to try to exclude them. Furthermore, some witnesses pointed out the extent to

which the police and government officials rely on media reports of a terrorist incident, both for information and alerting purposes. This is particularly true during the early stages of incidents and for those outside of Canada. In effect, the media can be a valuable early warning system for law enforcement and government organizations.

The "Safety Valve": Several witnesses pointed out that the primary objective of terrorists is to publicize propaganda, demands or grievances and violence or the threat of violence is often only a means to that end. Accordingly, terrorists will often settle for publicity, rather than actually committing the violence they threaten. Some witnesses and commentators on the subject also suggested that if media coverage were to be curtailed or prohibited, terrorists would perpetrate increasingly violent actions in order to compel coverage.

Objective, Factual Reporting: Many journalists maintained that informed and accurate media coverage can help defuse a terrorist threat by reducing the spread of false and alarming rumours. They also held that media coverage can perform the invaluable role of informing the public on the extent and nature of a specific terrorist threat. In this way, the media may help reduce the level of "terror", thereby detracting from the effectiveness of terrorism. Although it was criticized by some witnesses, others felt that media coverage of the threatened bombing of the Toronto subway allowed people to make informed decisions on the level and validity of the threat and whether to use the subway.

Freedom of the Press: Several media witnesses referred to subsection 2(b) of the **Canadian Charter of Rights and Freedoms** which guarantees "freedom of the press and other media" as a "fundamental freedom". Most witnesses strongly oppose any outside, especially government, interference in the way the press operates, or in whatever the press decides to publish. Some media representatives go as far as objecting to agreements or even consultations between the media and the authorities on the media's coverage of terrorist incidents. They fear that this could lead to management or co-optation of the media that would inhibit the healthy independent and critical position of the media with respect to the authorities.

The Potential Negative Impacts of Media Coverage

In the main, witnesses' criticism of the media's performance in reporting terrorism and terrorists' threats and incidents was directed at the electronic (television and radio), as opposed to the print media for any of the following reasons. The electronic media was said to be more continuous and have more immediacy. Television and radio can broadcast from the scene during an incident; the print media must await the next edition and have the opportunity to

obtain background, provide perspective and balance. It was suggested that pictures and sound often portray the drama and excitement of an incident with more impact than print. Television cameras, lights and tape recorders are sometimes more noticeable and perhaps obtrusive at a terrorist incident than a print reporter with a pen and notebook.

Witnesses suggested that it is the electronic media that usually break a story first. Testimony suggests that they are also compelled more to compress and summarize coverage in order to fit into relatively short time slots. This opens the electronic media to charges of news interpretation or management. Finally, witnesses stated that the electronic media are more readily accessible to the vast majority of Canadians and are more susceptible to the exigencies of competition. This does not mean that the print media generally escapes criticism for their behaviour. It was pointed out that after the Turkish Embassy incident, at least two Canadian newspapers urged in editorials that the Canadian government explore ways to have the "Armenian genocide" recognized, thus granting the terrorists a measure of success.

Terrorist Acts Rely on Media Coverage: This proposition heard by the Committee consists of two elements: The first is that the media plays an important--some said vital--role in communicating the threat and violence in order to engender terror. Media coverage, attracted by violence or the threat of violence, provides terrorist groups with a very cost-effective method of airing their grievances and objectives.. The second element of this proposition is that media coverage of terrorist threats and incidents promotes "copy-cat terrorism". Some witnesses stated that coverage of a hijacking, for example, may plant the idea and the techniques of hijacking in the minds of those who have a grievance and may be inclined towards violence.

Media Coverage Personalizes a Terrorist Incident: During the hostage-taking incident at the Bahamian High Commission, there were repeated telephone interviews with and pictures taken of the hostage. The hijacking of TWA flight 847 from Athens to Beirut and the hostages held by the Hizballah group in Lebanon provided on-going opportunities for the media to interview hostages, friends and relatives, or to broadcast messages from the hostages. Journalists stated that these "human interest angles" are an important element of media coverage.

Other witnesses pointed out, however, that while direct contact with hostages provides the media with an intimate and valuable perspective on what is happening during an incident, the consequences can be unfortunate. Several authorities on the subject point out that the publication of pictures, names, occupations or addresses of hostages, families and friends can subject them to threat or intimidation by the hostage-takers or their confederates, during or after the incident. During the Turkish Embassy incident and in spite of requests to

the contrary, the media televised pictures of diplomats and staff of the Turkish Embassy. (Turkish diplomats in Ottawa and elsewhere apparently try to avoid being identified publicly, lest they be more easily targeted by terrorists.)

Commentators on the subject contend that in order to communicate terror to the citizenry, some terrorist incidents are most effective when they demonstrate the vulnerability of society to apparently random attack involving, whenever possible, innocent, everyday citizens. It is important then that terrorists personalize their attacks; that average citizens are seen to be at risk.

Further, police explained that in the resolution of a terrorist incident, such as a hijacking or a hostage-taking, governments and police usually avoid taking aggressive actions to force a quick end, unless the circumstances require them to do so. Negotiators will usually play for time, try to lower the sense of crisis and emergency and, thereby, achieve a peaceful solution without loss of life. They suggest that the personalization of an incident militates against this strategy. The natural reaction of citizens will usually be to sympathize with the hostages and question what the authorities are doing and why a resolution is taking so long. In this regard, some witnesses suggested media coverage may help present the terrorists as strong and the authorities as weak, bumbling or disinterested.

Providing Intelligence to Terrorists: Witnesses stated that the media unintentionally sometimes provide invaluable intelligence to terrorists during an incident through broadcast news reports. Police contend that news about the total number of people in a building under siege could threaten those who have managed to hide. Information provided on hostages, families and friends may also be dangerous. Terrorists have been known to select victims on the basis of race, religion, nationality or even occupation. Such information can also be used to pressure hostages. Information provided by the press on Brigidier General Dozier, during his captivity by the Italian Red Brigades, is alleged to have been "the most valuable intelligence the Red Brigades were to secure".* Police pointed out that information provided through the media such as the location, movement, size or plans of police assault teams, the location of police snipers or operations centres can endanger lives and prejudice an assault operation.

Police witnesses expressed frustration that broadcasters appear sometimes to lose sight of the fact that terrorists are usually capable of monitoring their coverage during an incident, either directly or through confederates.** In the

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* Dr. Rudolf Levy, "Terrorism and the Media", Military Intelligence, p. 36.

** The example often referred to is an incident in Mogadishu, Somalia. In October 13, 1977 a Lufthansa 731 was hijacked and finally ended up in Mogadishu. To aid authorities, the pilot covertly provided information about the terrorists. When the media disclosed his activities the pilot was killed by the terrorists.

heat of the moment and in a quest for facts to relate to their audiences, police fear that the media may disclose information that can endanger lives.

Media Behaviour Can Impede Resolution of a Terrorist Incident: During the Bahamian High Commission and Turkish Embassy incidents in Ottawa, the hostage-takers received a number of calls from the media. These calls into the sites occupied the telephone lines and made it impossible for the police to establish continuous contact with the terrorists. Police eventually severed the telephone lines and established their own contact. In the view of the authorities involved, these calls by reporters into the sites impeded the resolution of the incidents.

Police point out that journalists may also unwittingly impact on the evolution of an incident. During the Turkish Embassy incident, for example, a radio reporter contacted one of the terrorists and asked if he had any "short term demands" other than a recognition of the Armenian genocide. According to police, the idea of "short-term" demands had not previously been raised and, from the reaction, had previously not been considered by the terrorists.

The Police Perspective

Testimony by police officers before the Committee made it clear that their basic approach is to handle a terrorist incident as quickly as possible and without loss of life. Relating to the media is, at best, a secondary consideration and, at worst, a major source of irritation.

In addition, police officers pointed out that in providing information to the media, they are trained to avoid anything that might prejudice the resolution of an incident, the fair trial of the alleged terrorists or might endanger the safety of victims or their families, either during or after the incident. With this in mind, most police officers find it best to "say nothing and brave the hostility of the press".

While some police officers have been trained in media relations, many have not, particularly for the tense, emergency environment of a terrorist incident. During the Turkish Embassy siege, it was a police officer who disclosed to the press that the Turkish Ambassador was lying just outside a window of the Embassy, was injured and could not be moved. This information, when relayed by the electronic media, put the Ambassador's life at risk. The officer acknowledged that the mistake was made under the pressures of the moment and without realizing that T.V. cameras were broadcasting his comments live. (At the time of the incident, the officer handling media relations had not been trained in media relations, but has since completed courses at the Police College.)

COMMITTEE OBSERVATIONS AND RECOMMENDATIONS

A Review of Selected Terrorist Incidents

The Committee examined media coverage of the Turkish Embassy siege and the Bahamian High Commission hostage-taking. While dramatic, compelling and informative, the media released information during the incident that could have endangered lives, or could have interfered with police operations. (In both cases, televisions and/or radios were on and available to the terrorists.)

- In both cases, media representatives initiated and tried to maintain telephone contact with terrorists or hostages, blocking lines into the site.

- During the Turkish Embassy incident, a radio reporter asked leading questions about "short-term demands" that had apparently not been made or even considered by the terrorists.

- In both cases, information was provided on the location or plans of police assault teams. In the Turkish Embassy case, information was provided on the location of police snipers and the police operational headquarters that, in the words of one police officer, would have allowed the terrorists "to pick off our men like flies". During the Bahamian High Commission incident, a local radio reporter broadcasting from the scene disclosed that the Ottawa police SWATeam was moving into position into the offices immediately below the High Commission.

- In the Turkish Embassy case, the media disclosed that the police intended to manoeuver an armoured vehicle into position to act as a barricade to rescue the injured Ambassador.

Much of this information was obtained through observation or by monitoring police band radio frequencies.

Police handling of these incidents also left much to be desired.

- In both cases, the police were slow to set up even basic facilities for briefing the press. In the Turkish incident, most of the briefings took the form of disorderly "scrums". The police officer dealing with the press was inadequately trained to perform the function.

- During the Turkish Embassy incident, police officers briefing the press were apparently unaware of the technology available to

television reporters, particularly the fact that interviews with the police were being broadcast instantaneously.

- During the Turkish Embassy incident, police released to the media information on the location of the injured Ambassador that put him at risk. During the Bahamian High Commission incident, the police refused to confirm or supply information to the media that was already in the public domain, or had been broadcast by other media outlets. This caused competitor stations to contact the High Commission direct; an action the police later criticized as irresponsible.

- During both incidents, the police were slow in cutting telephone lines into the sites and establishing their own contacts.

- During the Bahamian incident, a jurisdictional dispute between officers of the RCMP and Ottawa Police Force did more to anger the hostage-taker and delay resolution than anything done by the media.

The Media

The Committee devised a set of questions relating to the media coverage of terrorist incidents. These questions, which are listed at Figure 9, were gleaned from existing policies and guidelines, from research, or from testimony of witnesses before the Committee. They would be the type of issues that would confront reporters covering a terrorist incident. The questions were posed to reporters, editors and other media witnesses appearing before the Committee.

The Committee was intrigued that some of these questions were being considered for the first time, even by witnesses who had been actively engaged in the reporting of previous terrorist events in Canada or abroad. This might explain the wide variations in responses from witness to witness.

Several news organizations and media outlets have devised or are devising guidelines, policies or procedures for the handling of terrorist incidents. After having reviewed media coverage of terrorist incidents in Canada and abroad and with the benefit of hindsight, the Committee has concluded that, in the main, the guidelines that are in force do not address some important issues that have been raised by media coverage of recent incidents. Even when guidelines exist, experience suggests that they are not always scrupulously followed. This is perhaps understandable in the Canadian context where there have been relatively few terrorist incidents and where, at least to date, the media has had no measurable impact on them.

Media Restraint: Testimony before the Committee clearly indicates that effective guidelines raise serious issues and concerns with many media people.

Figure 9
Questions

- **Would you respect a police perimeter at a terrorist incident?**
  - Would you try to get a vantage point outside the perimeter to see and report what was happening inside the perimeter?
  - Would your presence at the incident be unobtrusive, or would it be obvious "the media was there"?
  - Would you report the maneuvering of a SWAT Team getting ready to assault the building?

- **Would you initiate interviews with relatives/friends of hostages during a hostage incident?**
  - Would you report the names of hostages?
  - Would you report the status of hostages (e.g. alive, dead, frightened, hungry, angry, etc.)?

- **If information concerning a terrorist incident came to you, would you release it if the authorities asked you not to?**
  - If police said the information could endanger lives?
  - If police said the information could prejudice an assault operation?
  - If police said the information could frustrate negotiations or delay resolution of the incident?
  - If police said the information could cause "pain and suffering" to families and friends of the hostages?

- **Would you try to contact, by telephone or otherwise, terrorists or hostages during a terrorist incident?**

- **Would you immediately contact police, before or after public release?**
  - If a terrorist contacts you immediately after initiating a terrorist incident?
  - If you became aware of a terrorist incident to occur in a few days or immediately?
  - If you were the recipient of a communique, demands, propoganda, etc. from a terrorist?

- **Would you place yourself or allow yourself to be placed in a position of negotiating with terrorists?**

- **Would you consent to a live interview with a terrorist?**
  - During an incident?
  - After an incident?

- **Would you publish demands or propaganda of a terrorist group?**
  - During an incident or after?
  - In full, edited or summary form?
  - If police asked you not to?
  - If police asked you to?

First, media guidelines prepared or imposed by someone other than the media themselves could expect stiff opposition from most journalists. Second, in view of the relatively few terrorist incidents that have occurred in Canada and the lack of any evidence that the media have had an impact on them one way or the other, journalists question the need for guidelines at all. Third, how can guidelines foresee every eventuality in future terrorist incidents in which the media, intentionally or unintentionally, might have an impact? Finally, media witnesses expressed concern that any significant degree of restraint in withholding information relating to a terrorist incident, regardless of the reasons, could damage the media's credibility and their perceived objectivity and neutrality. As one witness stated, "The public would say: If they (the media) are not publishing this for whatever reason, what else are they holding back?"

Testimony before the Committee indicated clearly that media coverage and police actions during at least two terrorist incidents in Canada could very easily have endangered lives or prejudiced resolution of the incidents. Effective guidelines could well have helped the journalists and police involved avoid some of the pitfalls. The Committee also notes that the media has guidelines in other areas such as the coverage of natural disasters or civil disorders. With relatively minor modifications, these guidelines could be adapted to terrorist situations. Finally, the Committee notes that the media has engaged and continues to engage in some restraint in reporting on terrorist and other incidents. The names of traffic accident victims are not usually disclosed until next of kin have been notified. During the TWA 847 hijacking, the international media knew, but did not report, that a member of the National Security Agency was on board the aircraft. There are other examples of media restraint in Canada, some of which will be discussed below.

One of the most difficult questions facing the Committee was whether media restraint would result in terrorists resorting to increasingly horrendous atrocities to compel media coverage. The Committee believes that there are limits to the violence terrorists can mount, either because of resources and capabilities, or because of the impact increasing violence would have on the terrorists' ability to achieve their aims. Ian Smart points out that the terrorist

> . . . can seldom afford to push his wider popular audience beyond the limits of terror and pity into a mood of outraged revulsion. . . . He fails if his actions and their effects are so repellant that his audience . . . becomes intent on abetting the government in an effort to eradicate terrorism at any cost. And he fails most disastrously when revulsion reaches his natural supporters or the mass of the community in whose interests he claims to act.*

* Ian Smart, "International Terrorism", in Behind the Headlines, Volume 44, No. 3, February, 1987. Canadian Institute of International Affairs, p. 10.

The Police

The Committee agrees with the testimony of many media witnesses that police-media relations are generally poorly organized, fraught with mutual suspicion sometimes bordering on antagonism, as well as a lack of sympathy or understanding by the police of the media's role and functions. The media hold that this situation results in much of the behaviour for which the media is subsequently criticized. Journalists argue that the general police attitude during or after a terrorist incident is to tell the media as little as possible and sometimes even to engage in "disinformation".

Some journalists alleged that police often provide information to "preferred" journalists and not to others. This, in turn, leads to hostility, resentment and competition between news organizations that can lead to irresponsible behaviour, as illustrated by some of the incidents already reviewed in this Part. Some members of the media also contend that the police's aversion to media coverage is motivated, not only by the police's desire to conduct operations unimpeded, but also because media coverage encourages or imposes increased accountability to the public for the police's conduct of the operations.

In reviewing some recent terrorist and criminal incidents the Committee identified some obvious flaws in the way in which the police related to the media: Often the police officer responsible for media relations was relatively junior and did not have the requisite authority or expertise to decide which information could be released to the press and what could not. Adequate facilities were not always available for press briefings. The police media relations officer was not always adequately trained for the function.

The Committee noted with particular concern that much of the criticism of poor media relations was directed at the RCMP, not at provincial or municipal police forces. The Committee also noted that, to date, the RCMP does not have a media relations capability expressly designed to conduct media relations during a terrorist incident in which it is involved. As a consequence of testimony before the Committee, including some from the RCMP, **the Committee feels it important that the RCMP fundamentally rethink how it communicates with the public and relates with the press and, in particular, establishes an effective media relations capability to deal with the press during a terrorist incident in which the RCMP is involved.**

There have been several criminal incidents in Canada--usually involving hostages--where the media refrained from publishing information at the request of the police, on the grounds that its publication could endanger lives or

interfere with the resolution of the incident. Based on these precedents and on experience in other countries, in particular the United Kingdom*, several witnesses suggested that substantial gains can be made in this direction.

Several witnesses felt it appropriate and often necessary that information be withheld from public release during an incident, but that the same information need not be withheld from journalists for release later on. They had in mind a procedure whereby journalists would be fully and continuously briefed by police officers on all aspects of the situation, including the police's plan for resolution. In addition, cameramen and still photographers would be allowed safe access to take pictures for public release later on. Suggestions were made by witnesses that the media could be briefed on a pool basis, whereby a few journalists would be briefed by police and these journalists would, in turn, provide the information to the remaining journalists, on the basis of strict equality. In briefing the journalists, however, the police would clearly identify the information that could be released to the public immediately and the information that could not be released until the incident is over. The grounds for not releasing certain information would be that to do so would endanger life, or interfere with the resolution of the incident. This approach would result in the media knowing all during an incident, but being allowed to publish or broadcast certain information only after the incident is over, or sooner with police authorization. The condition would be, not only that the media respect the police's directions on the release of such information, but also that the media refrain from using other sources of information, such as telephone calls into the terrorists, that could interfere with police handling of the incident.

Some witnesses recommended another innovation for major urban centres: As a matter of police policy, any journalist accepted into the "pool" could be accredited by the police. Police accreditation could include "auditing" or participation in at least some police anti-terrorist training programs. It was argued that this would raise the journalists' credibility with the police and would help the journalists evaluate and understand the police actions during an incident, in particular the necessity to withhold certain information temporarily.

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* The London Metropolitan Police Force follows the "Marks Guidelines" for media relations that are essentially identical to the approach recommended in this Part. The Guidelines were named after Sir Robert Mark, who issued the guidelines during his tenure as Chief Commissioner. During the kidnapping of German industrialist Hans Martin Schleyer, the German government successfully obtained agreement from the media to restrain its coverage until the incident was terminated. In return, the media were given a detailed account of developments as they occurred, by the authorities. With the exception of a few minor publications, the German media respected the agreement.

Police officers are less than enthusiastic about this approach. While there are occasions on which such an approach has worked*, there are also occasions in which it has failed**. Police are concerned that one inexperienced or dramatically-inclined broadcaster could prejudice the entire approach. Police are also concerned that the competitive nature of the broadcasting industry will induce breaches. Police point out that several national news organizations refuse, as a matter of policy, to respect embargos on announcements and would likely extend that policy to information provided during a terrorist incident. Finally, police are concerned that the agreement might well be respected by the media within a defined geographic area, but would break down as soon as journalists from outside the area arrive who were unaware of or refused to respect the agreement.

After careful consideration of the evidence and testimony placed before it, the Committee finds the police's concerns valid and compelling. While recognizing that such arrangements have sometimes worked and are being discussed by the police and media in several cities as a model for handling future incidents, the Committee has no confidence that this approach can be expected to work generally, or even frequently.

GUIDELINES FOR MEDIA AND POLICE

Media

In light of the conclusions set out above, the Committee is drawn to guidelines prepared by the media, in consultation with government and law enforcement officials, and monitored and reviewed by the media's own professional associations. In the Committee's view, there should be two basic principles underlying the preparation of such guidelines. First, the media's coverage of a terrorist incident should not endanger lives or property or interfere with the authorities in their attempts to resolve the incident by force, negotiation or otherwise.*** Second, while guidelines will suggest the media restrict itself

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* For example, in January, 1978 a hostage-taking incident began in Calgary and ended in Oak Lake. Certain information came into the hands of the media that, in the opinion of the police, could have made resolution of the incident more difficult. At the request of the police, the media refrained from relaying this information until the incident was completed.

** For example, during the kidnapping of Edmonton businessman Peter Pocklington, a local television station shot some film footage. The police thought the broadcast of this tape could detract from their attempts to resolve the incident quickly and peacefully. Another television station broadcast the footage and the original station then felt compelled to follow suit.

*** This principle may appear to be trite. The Committee noted, however, comments made by senior journalists before the Committee and elsewhere that indicate this principle is not universally accepted in the media. See for example, comments attributed to or made by journalists in Arthur Lewis', "Press and Police Clash over Hostage-Takings", Bulletin, Centre for Investigative Journalism, Ottawa, March 1986; and Public Broadcasting System Series on "Terrorism and the Media", January-February 1987.

from broadcasting information during a terrorist incident, there should be no limitation on the media's ability to release information after the incident, as long as doing so would not endanger lives of former hostages, their families or friends, or prejudice future assault operations by SWATeams.

In order to assist in discussions and to provide a starting-point for a set of guidelines the Committee has devised the following outline which addresses gaps the Committee feels exist in current guidelines or policies.*

Live Coverage: Through live coverage of a terrorist incident, the media may unwittingly and unintentionally provide information which is of assistance to the terrorists, which endangers lives or jeopardizes or delays the resolution of the incident. Accordingly, an integral part of any guidelines should be to address the live and unedited coverage of terrorist incidents.

Contact with Terrorists: When journalists call into the site of a terrorist incident or undertake interviews with terrorists over the telephone or otherwise, they run the risk of overloading telephone lines into the site and making it more difficult for the police to establish and maintain contact with the terrorist. Furthermore, direct contact with and coverage of a terrorist feeds his ego, strengthens his cause among potential supporters and may prolong the crisis. Accordingly, media guidelines should caution journalists on initiating contact with terrorists, suggest ways in which journalists can involve the police in discussions with the terrorists and encourage the journalists to refer calls from terrorists to the senior journalist on duty at the time. The police can assist the media by advising reporters on how to handle such calls, the type of information journalists should try to obtain to help defuse or resolve the incident, what to say and what not to say.

Media as Intermediaries: Negotiation with terrorists is both an art and a science for which selected police officers are intensively trained and experienced. An inexperienced negotiator may exacerbate the crisis. The media's guidelines should caution members of the press on the serious potential repercussions of injecting themselves into such negotiations.

Police Perimeters: During a terrorist incident police will be preoccupied with the handling of the incident and should not be distracted by members of

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* Senator Fairbairn does not concur with this segment of the Part dealing with "guidelines". She does not share the preoccupation of the Committee with outlining specific guidelines in the Committee's Report. In her view this is properly the responsiblity of the media and the police, if such guidelines are ever to be effective. She also feels that it is urgent that discussions begin in a frank and practical manner between media and the police to reach a mutual understanding of their basic imperatives and areas of possible cooperation well in advance of a future terrorist incident.

the public and the media trying to intrude onto the site. Further, when terrorists catch sight of lights, cameras and microphones it can interfere with police attempts to diffuse the incident and bring it to a quick solution without injury or loss of life. Accordingly, the media guidelines should encourage the media to respect police perimeters and to make their presence at or close to the site as unobtrusive as possible.

Preparations: Media coverage during a terrorist incident can provide valuable information to the terrorists, either directly or through their confederates on the outside. Terrorists are usually able to monitor radio and television broadcasts during an incident. Accordingly, media guidelines should caution journalists on broadcasting information during the incident that could endanger lives, prolong the incident or jeopardize an assault operation, such as the presence, on site, of police assault teams, the location of police snipers, observation or command posts, or police plans or maneuvers to position or undertake an assault and rescue operation.

Propaganda: The essential purpose of a terrorist act is to publish (and hopefully to gain sympathy or support for) the terrorists' aims, objectives or grievances. When the media reports terrorist propaganda, especially in unedited form or without comment, it may play into the terrorists' hands and helps make terrorism viable. Accordingly, media guidelines should give guidance on how and when to broadcast or report terrorist propaganda or terrorists' demands.

Hostages: Providing information on hostages during an incident can give terrorists valuable information that they can use to further their objectives or to intimidate or pressure hostages. Accordingly, media guidelines should caution journalists on the release of the names, number and the status of hostages during an incident.

Identification of Terrorists: The media is able to confer status on terrorists or the groups they claim to represent merely by mentioning their names. Accordingly, media guidelines could address the issue of how to refer to terrorists, perhaps encouraging journalists to refer to them generically as "gunmen" or "hostages". Furthermore, spokespersons for ethnic groups made strong representations to the Committee about the harm done to their communities by being implicated through association of racial or religious origin with those very few who carry out terrorist attacks. Given the speed and surprize factor associated with terrorist incidents, this is clearly a difficult area of concern that deserves consultation between representatives of ethnic communities, on one hand, and the police and the media on the other.

After the Incident: The guidelines should caution journalists about the publication or broadcasting of information after a terrorist incident that could

reasonably be expected to prejudice the resolution of subsequent terrorist incidents, or endanger released hostages. Given the potential sensitivity of such information, the media may be requested to withhold the names of members of the police assault teams, their permanent headquarters or special techniques. Further, it may be advisable under certain circumstances to withhold the names and addresses of hostages, lest they be put at risk or intimidated by confederates of the hostage-takers.

Police

Perimeters: The police should move as quickly as possible to secure a cordon around the site of a terrorist incident and secure the area. In light of past experience, police will have to consider establishing perimeters that neutralize the ability of the electronic media to use telephoto lenses and other technology to broadcast developments in or close to the site during the incident. This will usually involve moving reporters and members of the public far away from the area. Telephone lines into the site should be cut immediately and the police should devise, in advance, more effective ways of establishing communication links with terrorists and hostages at a terrorist incident.

Briefing Rooms: As soon as possible after an incident begins, police should establish a location close to the site, but outside the perimeter, where police officers will be available to brief the media. In view of past experience, whenever possible police should avoid "media scrums" to brief the press.

Police Media Relations Officer: The effectiveness of police-media relations during an incident will depend to a considerable extent on the police quickly designating a senior police officer with good communications skills, media relations training and the knowledge of what is going on at the incident to deal with the media. Whenever possible, this officer should be of requisite seniority to speak with the authority of the commanding officer at the site and, thereby, be able to designate information that can be released to the press and to identify any information that cannot, at least for the time being, be released to the public on the grounds that it could endanger life or prejudice the resolution of the incident.

After the Incident: The police should consider ways to provide the media with extensive post-incident briefings and, during the incident, explore with the media ways to give the media opportunities safely to take pictures of the site for release after the incident is over.

Conclusions

The Committee is under no illusion that implementation of even the most comprehensive guidelines will reduce the number or severity of terrorist incidents in Canada, nor is the Committee under any illusion that guidelines will be religiously or universally respected. The existence of effective guidelines may, however, save a life or speed the resolution of a terrorist incident.

In the final analysis, however, when a terrorist incident occurs, the paramount consideration must be the resolution of the incident in such a way as to minimize danger to life or property. The primary responsibility for this lies with police officers. **The Committee has concluded that to resolve a terrorist incident, law enforcement officers are not only permitted, but indeed have the obligation, to take and enforce whatever steps they deem necessary within the law to secure the situation as quickly as possible. The most practical and effective way to minimize media intrusion or inadvertence is for police to take immediate action to restrict the media's physical access to the scene.** After the incident, the media will have an opportunity to appraise the methods by which police handled the incident.

Police must realize, however that the media does form an integral part of any police strategy to handle a terrorist incident. As indicated earlier in this Part by witnesses, terrorists may settle for publicity through the media rather than perpetrate the violence they threaten; strategic release of terrorist propaganda or demands by authorities through the media might assist in negotiations; while the release of some information during an incident could endanger lives or jeopardize negotiations or an assault operation. **Accordingly, the Committee strongly recommends that the federal government, through the Department of the Solicitor General and the RCMP, initiate discussions with representatives of national media organizations and outlets as well as selected provincial and municipal police forces to design practical guidelines. The Committee would like to see a process developed whereby police and media groups in an ever-growing number of centres reach agreements that are consistent and would eventually merge into national guidelines.**

In the Committee's view it is imperative that these discussions occur soon, prior to a terrorist incident that results in problems that could have been avoided through implementation of such guidelines.

Appendix A

List of persons who appeared before the Committee

Date	Witnesses
December 1, 1986	**From the University of Colorado** Mr. Jeffrey Ross
	From the Conference Board of Canada Dr. Thomas Mitchell Research Associate Corporate and Public Issues
	From the Department of the Solicitor General Mr. J.M. Shoemaker Senior Assistant Deputy Solicitor General
	Mr. Alasdair MacLaren Director General Security Planning and Coordination Directorate
	Mr. David Davidson Director General Communications Group
	From the Canadian Security Intelligence Service Mr. J.S. Warren Director General Counter Terrorism
	From the Royal Canadian Mounted Police Commissioner R.H. Simmonds
December 5, 1986	**From the Canadian Institute of Strategic Studies** Dr. George Bell President

From the Department of External Affairs
Mr. George Seymour
Director General
Security Services Bureau

Mr. M. Meadows
Deputy Director (Policy)
Emergency Coordination Division

From the International Air Transport Association
Dr. R.R. Shaw
Assistant Director General-Technical

From the Metropolitan Toronto Police
Staff Inspector James Flynn
Unit Commander
Intelligence Services

Staff Sergeant Ronald Warren
VIP and Security Section
Intelligence Services

January 30, 1987

From the Bank of Montreal, International Affairs
Mr. Randall Heather
Senior Advisor

From the University of Alberta
Professor Leslie Green
Department of Political Science

From the Department of External Affairs
Mr. Alan Sullivan
Assistant Deputy Minister
Political and International Security Affairs Branch

From the Canadian Security Intelligence Service
Mr. T. Darcy Finn
Director

Mr. J.S. Warren
Director General
Counter Terrorism

From the Department of National Defence
Commodore J.C. Slade
Director General
Intelligence Service

Colonel A.H. Stevenson
Director
Security

January 31, 1987

From the Government of the Province of British Columbia
Colonel Robin Bourne
Assistant Deputy Minister
Ministry of the Attorney General

From the Department of the Solicitor General
Mr. J.M. Shoemaker
Senior Assistant Deputy Solicitor General

Mr. Alasdair MacLaren
Director General
Security Planning and Coordination Directorate

Mr. David Davidson
Director General
Communications Group

From the Canadian Security Intelligence Service
Mr. T. Darcy Finn
Director

Mr. J.S. Warren
Director General
Counter Terrorism

From the Royal Canadian Mounted Police
Commissioner R.H. Simmonds

From the Department of External Affairs
Mr. Alan Sullivan
Assistant Deputy Minister
Political and International Security Affairs Branch

From the Department of Transport
Mr. J. Rodocanachi
Director General
Security and Emergency Planning Group

From the Centre of Criminology, University of Toronto
Mr. Stuart Farson

From the United States Global Strategy Council, Washington, D.C.
Dr. Dalton A. West
Director of Research: Pacific Basin

From the Conference Board of Canada
Dr. Thomas Mitchell
Research Associate
Corporate and Public Issues

February 2, 1987

From the Royal Canadian Mounted Police
Commissioner R.H. Simmonds

Deputy Commissioner N.D. Inkster

Chief Superintendent J.L.G. Favreau

From the Department of National Defence
Brigadier General J.R.C. Bertrand
Director General
Military Plans and Operations

Major John Trethewey
Director, Military Plans Coordination

From the Department of the Solicitor General
Mr. Alasdair MacLaren
Security Planning and Coordination Directorate

Mr. David Davidson
Director General
Communications Group

From the Department of External Affairs
Mr. George Seymour
Director General
Security Services Bureau

From the Ottawa Police Force
Staff Inspector John McCombie
Detective Division

From the Department of Transport
Mr. J. Rodocanachi
Director General
Security and Emergency Planning Group

From the Ontario Provincial Police
Superintendent J.P. Crozier
Director
Criminal Investigations Branch

From the Metropolitan Toronto Police
Staff Inspector Grant Waddell

From the Government of the Province of Ontario
Mr. Malcolm Lindsay, Q.C.
Senior Assistant Crown Attorney

Mr. Donald Macdougall, Q.C.
Assistant Crown Attorney

From the Department of Justice
Mr. Douglas Rutherford, Q.C.
Associate Deputy Minister of Justice

From the Canadian Security Intelligence Service
Mr. T. Darcy Finn
Director

February 20, 1987

From the Canadian Employment and Immigration Commission
Mr. J.B. Bissett
Executive Director
Immigration Branch

	Mr. Ed Donagher Director General Operations Branch
	From the Department of External Affairs Mr. Terry Sheehan Director General Consular and Immigration Affairs Bureau
	From the Immigration Appeal Board Mme M. Falardeau-Ramsay. Q.C. Chairman
	Mrs. Joan Denis Executive Director
	Dr. Ian Rankin Chief Research and Special Advisor
	From the Department of National Revenue (Customs and Excise) Mr. M.A. Gallup Assistant Deputy Minister (Field Operations)
	Mr. Michel Joly Chief Interdiction and Intelligence Division
February 21, 1987	**From the Department of the Secretary of State** Mrs. Catherine Lane Registrar Citizenship Registration
	Mr. Richard Dicerni Assistant Undersecretary of State (Citizenship)
	Mr. Orest Kruhlak A/Assistant Undersecretary of State (Multiculturalism)
April 2, 1987	**From the International Sikh Organization** Mr. Manohar Bal-Singh
	Mr. Raghbir Singh Samagh

	Independent Witness Mr. Zuhair Kashmeri
	From the Mississauga Policy Advisors Association Mr. Said S. Zafar Chairman External Affairs Committee for International Trade
	Mr. Blair W. Thompson Secretary External Affairs Committee for International Trade
April 3, 1987	**From the Security Intelligence Review Committee (SIRC)** Mr. Ron Atkey, P.C., Q.C. Chairman
	Mr. Jean-Jacques Blais, P.C., Q.C.
	Mr. Saul Cherniack, P.C., Q.C.
	Mme Paule Gauthier, P.C.
	Mr. Frank McGee, P.C.
	Mr. Maurice Archdeacon Executive Secretary
	Mr. Arthur Graham Director of Research
	Ms. Shirley Heafey Senior Complaints Officer
	Ms. Annie Demirjian Executive Assistant
April 10, 1987	**From the Global Television Network** Mr. Peter Trueman
	From Carleton University Professor Joe Scanlon School of Journalism

	From the University of Ottawa Professor Ron Crelinsten Department of Criminology
April 11, 1987	**From Canadian Broadcasting Corporation-TV News** Mr. Elly Alboim Ottawa Bureau Chief
	From the Ottawa Police Force Staff Inspector Robert Woods
	Staff Sergeant Garry Rae
	From the Department of the Solicitor General Mr. David Davidson Director General Communications Group
	From CJOH-TV (Ottawa) Mr. Al McKay Station Manager
	Mr. Brian Goff Assignment Editor News
	From the Peel Regional Police Staff Inspector Gary Crowell
	Mr. John Yoannou Media Relations Officer
	From Canadian Press Mr. Jim Poling Vice President and Managing Editor
	Mr. Peter Buckley General News Editor
April 13, 1987	**From CHFI Radio (Toronto)** Mr. Peter Worthington
	From CBLT-TV (Toronto) Ms. Hilary Brown

	From the Canadian Broadcasting Corporation-Radio News Ms. Carol Off
	From Southam News Mr. Don McGillivray
	From Newsradio Mr. Eric Rothschild Vice President and General Manager
	From Carleton University Professor George Frajkor School of Journalism
	From The Toronto Star Mr. Val Sears Editorial Writer
	From the Royal Canadian Mounted Police Superintendent J.R. Bentham Director of Information
	From the Ottawa Police Force Staff Inspector Robert Woods
	Staff Sergeant Garry Rae
	From the Department of the Solicitor General Mr. David Davidson Director General Communications Group
May 21, 1987	**Independent Witness** Dr. Atken Armenian
	From the Canadian Jewish Congress Mr. Manuel Prutschi National Director Community Relations
May 22, 1987	**From the Department of National Defence** Brigadier General J.R.C. Bertrand Director General Military Plans and Operations

Major K.D. Arril
Director, Military Plans Coordination

From the Royal Canadian Mounted Police
Deputy Commissioner N.D. Inkster

Superintendent A. Sabean
Officer-in-Charge, SERT

From the Department of the Solicitor General
Mr. Alasdair MacLaren
Director General
Security Planning and Coordination Division

Independent Witness
Mr. R. Gordon Robertson, P.C.

List of Persons Interviewed for Background Purposes

Ark II - Canadian Animal Rights Network
Doreen Pooley
Executive Director

Armenian Community Centre
Zarven Sarkissian

Atomic Energy Control Board
Jon H.F. Jennikens
President

Bill Smythe
Director General
Fuel Cycle & Materials Regulation

Canadian Association of Security and Intelligence Studies
Dr. David Stafford
Executive Director

Canadian Broadcasting Corporation
Mark Starowiez
Executive Producer
T.V. Current Affairs (The Journal)

Canadian Civil Liberties Association
Alan Borovoy
General Counsel

Canadian Daily Newspapers Publishers' Association
John Foy
President

E. Paul Wilson
Vice-Chairman and Treasurer

Bryan Cantley
Manager of Editorial Services

Canadian Institute of Strategic Studies
Colonel Brian MacDonald
Executive Director

John Thompson
Administrative and Research Officer

Canadian Press Wire Service
Jerry McNeil
Report-Editor
Ottawa Bureau

Canadian Security Intelligence Service (CSIS)
Ian MacEwan
Director General
Security Screening

Pierre Choquette
Deputy Director, Administration

Carleton University
Dr. Conrad Winn
Department of Political Science

CBC Radio
Bob Carty
Editor
CBC Sunday Morning

City of Ottawa Police Department
Thomas Flannagan
Deputy Chief

Department of External Affairs
Louis Haeck
Legal Counsel
Legal Affairs Bureau

Gerald Skinner
Director, ISE

M. Hendrick
Director, ISE

G. Pardy
Director, PSR

A. McAlister,
Deputy Director, ISS

M. Raletick
Deputy Director, PSR

R. Poetschke
Desk Officer

S. Husband
Desk Officer

P. McRae
Deputy Director
Legal Operations Division, JLO

Department of Justice
Gilles Lauzon
Counsel
Constitutional Law

Rick Mosley
General Counsel
Criminal Law, Policy and Amendments

Christine Verdon
General Counsel
Constitutional Law

Jean Bellemare
Legal Counsel
P.C.O. Section

Department of National Defence
D. Bev Dewar
Deputy Minister

General Paul D. Manson
Chief of the Defence Staff

General G.C.E. Theriault
Former Chief of the Defence Staff

Major General C.W. Hewson
Chief Intelligence and Security

Department of Regional Industrial Expansion
Dr. Michael Kelly

Department of Transport
Jacques Servant
Superintendent - Emergency Planning

J.C. Binette
Chief
Airport Policing and Security

Bruce Bouring
Acting Director of Airport Management Program

"Flight 182 Victims' Families Alliance"
Dr. Yogesh Paliwal
Head

Gloucester Police Force
Lester Thompson
Chief of Police

Government of Australia
Brigidier General M.H. Mackenzie Orr, O.B.E., GM
Head, PSCC

Immigration Security Task Force
Kurt Bell
Director General, Policy and Program Development, Immigration

Dr. Charles Belford
Director, Task Force on Security and Enforcement

Andrew Lamb
Deputy Director, Task Force on Security and Enforcement

National Assembly, Province of Quebec
Dr. R.D. French, MAN
Minister of Communications

Privy Council Office
J. Blair Seaborn
Intelligence and Security Coordinator

Horst Intscher
Executive Director
Office of the Intelligence and Security Coordinator

Radio and Television News Directors' Association
Ian Glenday
Past President

Royal Canadian Mounted Police
Roy Moffat
Deputy Commissioner
Administration

Senate of Canada
R.E. Gladstone
Chief
Security Service

Solicitor General Canada
James Kelleher
Solicitor General

Fred Gibson, Q.C.
Former Deputy Solicitor General

John Tait
Deputy Solicitor General

Sal Badali
Chief of Staff to Solicitor General
Perrin Beatty

Bruce Fountain
Chief of Staff to Solicitor General
James Kelleher

Southam Newspaper Group
Patrick Sherman
President

Strategic Analysis Group
Nicholas Stetham
President

The Globe and Mail
Geoffrey Stevens
Managing Editor

Michael Harris
Reporter

The Ottawa Citizen
Keith Spicer
Editor

Toronto Star
Archie MacKenzie
Ottawa Bureau Chief

University of Aberdeen
Lieutenant General Tim Smith,
Professor
Department of Politics and
International Relations

University of Manitoba
Colonel Yoram Hamizrachi
Program Director
Counter-Terror Study Centre

Dr. Peter St. John
Co-Director
Counter-Terror Study Centre

University of New Brunswick
Professor Maurice Tugwell
Centre for Conflict Studies

Professor David Charters
Centre for Conflict Studies

University of Toronto
Professor Peter Russell
Department of Political Science

Individuals
Hon. Robert Kaplan, P.C., M.P.

U.S. Department of State
Ambassador Parker Borg
Former Deputy Director of the State
Department's Office of the
Ambassador at Large for Counter
Terrorism

Appendix B

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